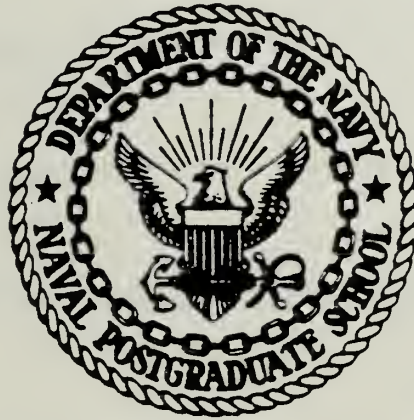


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THESIS

AN ANALYSIS OF THE ACQUISITION PROCESS
AT THE END OF THE FISCAL YEAR

by

Melda F. G. Dyer

December 1981

Thesis Advisor:

M. L. Sneiderman

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An Analysis of the Acquisition Process
at the End of the Fiscal Year

by

Melda F. G. Dyer
B.S., University of West Florida, 1970

Submitted in partial fulfillment of the
requirements for the degree of

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ABSTRACT

Each year over one hundred billion dollars is spent by the federal government to acquire needed goods and services. Of those funds the largest quarterly amount obligated occurs during the last quarter of the fiscal year. This thesis addresses the question of what the Department of Defense contracting officer can do within existing guidelines to facilitate the acquisition of needed items and services at the end of the year. This thesis analyzes year end spending at selected commands within the Department of Defense. The commands included are a supply center, two research facilities, two training facilities, and one operational air facility. Practical suggestions are offered and recommendations are made for managing the process to insure the effective and efficient use of funds. Specific recommendations address: complexity of acquisition guidance, use of requisition priorities, procurement planning, reinforcing employee behavior, and the need for and use of acquisition support equipment.

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I. INTRODUCTION

A. BACKGROUND

"Each year your Government spends one-quarter of its budget (over 100 billion dollars) procuring the goods and services it needs to operate" [Ref. 1:1]. There is a surge of obligations for those goods and services during the last quarter of the fiscal year. Such year end spending appears to be the norm, according to members of the United States Senate Subcommittee on Oversight of Government Management [Ref. 2:1].

Even though limited by Congress to obligating no more than twenty percent of the Operations and Maintenance funds in the last two months of the fiscal year, the Department of Defense (DoD) is one of the departments that incurs increased obligations during the last quarter of the year [Ref. 3:13]. In fact, Sherwood in his research found that DoD obligations in the last month of the fiscal year were one hundred and twenty percent of the average monthly rate over a four year period [Ref. 4:87].

Spending a disproportionate amount of DoD funds during the last quarter of the fiscal year does exist. Some people assume there is waste in year end spending. The Subcommittee on Oversight of Government Management believes that the amount of waste because of year end spending is "immense" [Ref. 3:5]. Senator W.S. Cohen, (R) Maine, has assumed that sometimes

employees waste funds by obligating simply to deplete the budget [Ref. 5:2]. Waste, by definition, is not an efficient and effective use of public funds. During the present year of federal budget cuts, there is a particular interest in both the public and private sectors that funds be spent effectively and efficiently [Ref. 6:26]. The surge at the end of the year does put pressure on the procurement system. If suggestions for the more effective and efficient use of funds are followed by contracting officers, the waste that may result from the increased pressure on the system may be alleviated.

B. RESEARCH OBJECTIVE

The objective of this research is to identify within existing guidelines practical means by which the DoD contracting officer in the year end spending environment can facilitate procurement that represents the effective and efficient use of funds.

C. SCOPE

This research studied the effectiveness and efficiency of procurement in systems and field purchasing activities. Field purchasing activities are considered to be shore activities which operate under a hardware Systems Command, Operational Command, or other headquarters. The research does not include purchases of under ten thousand dollars. The types of funds cited include Research, Development, Test, and Evaluation (RDT&E); Operations and Maintenance (O&M); Weapons Procurement (WP); Aircraft Procurement (AP); Missile

Procurement (MP); Military Construction (MC); and Other Procurement (OP). The approximate amount of goods and services purchased annually at the activities included in the study ranges from six million to one hundred and thirty million dollars.

D. RESEARCH METHOD

The research consisted of two parts. The first part was a literature review; the second part was a series of interviews conducted with the employees of field purchasing activities. The literature review included reports of Congressional hearings, letters written by Congressional members, Congressional bills, General Accounting Office (GAO) reports, and books and articles concerning federal spending. The interviews in the field were conducted with a sample of DoD employees who were based on the west coast of the United States.

E. ORGANIZATION

This thesis is organized so that Chapter I describes the acquisition process, Chapter II, the year end spending environment, Chapter III, the data, and Chapter IV, the analysis, conclusions, and recommendations. Thus the reader is exposed to a discussion first of the acquisition process, then to the problems encountered specifically at the end of the year, and finally, to the alternatives for facilitating acquisition at the end of the year.

F. THE ACQUISITION PROCESS

Acquisition may be viewed as a process whereby a contracting officer purchases, leases, or rents goods and services which a user requests. A "'contracting officer' means an official designated to enter into or administer contracts and make related determinations and findings" [Ref. 7:14]. The user is the person who employs the item; the requisitioner is the person who orders the item. Figure 1 depicts the communication which formally occurs between the requisitioner and contracting officer, and between the contracting officer and contractor [Ref. 8:1-400]. Likewise, the figure depicts informal communication which occurs between the requisitioner and contractor. The term contractor refers to both potential contractors prior to award of a contract, and to the successful contractor providing the goods or services after award of the contract.

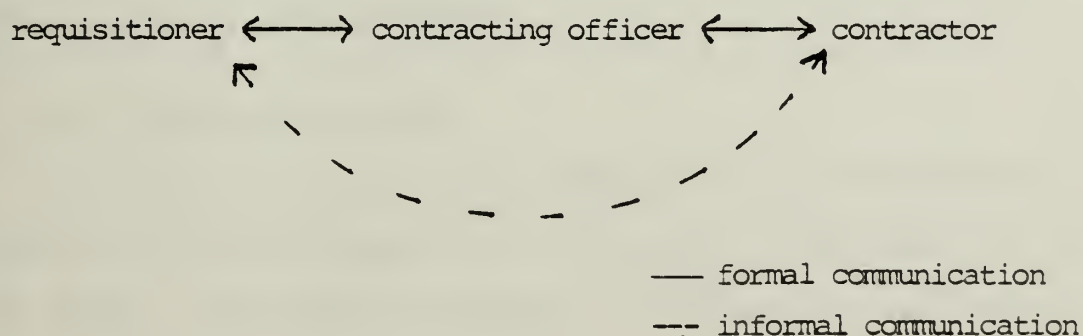


Figure 1. The Acquisition Process

Through formal communication a requisitioner communicates a requirement for an item or service to a contracting officer

who then requests such item or service of contractors. The contracting officer, it must be noted, does not initiate nor define the need, but rather informs the contractor of items and services which are requested. Through communication the contracting officer and contractor formulate the contract. "'Contract' means establishment of a binding legal relation basically obligating the seller to furnish personal property or non-personal services and the buyer to pay therefor. It includes all types of commitments which obligate the Government to an expenditure of funds and which, except as otherwise authorized, are in writing...." [Ref. 7:14]. Informal communication may take place between requisitioner and contractor; however, the requisitioner does not act as a contracting agent for the Government [Ref. 9:170]. A Government employee who is not a contracting officer may imply changes to a contract. These so-called constructive changes occur as a Government agent--through actions--changes a contract without using the formal process of a contract.

G. THE ACQUISITION STEPS

Acquisition may be viewed simply as the communication of needs and the procurement of the items or services to fulfill the needs. Although procurement, acquisition, and contracting are used synonymously in this text, procurement is currently defined as including the following steps:

1. Review of mission
2. Determination of need(s)
3. Definition of operational requirement
4. Definition of purchase requirement

5. Acquisition plan
6. Solicitation of sources
7. Evaluation and selection of contractor
8. Negotiation
9. Award of contract
10. Administration of contract
11. Ownership (operational and support)
12. Disposal

[Ref. 10]

Procurement is considered to be steps 1-12, or a "cradle to grave" process; acquisition, the contracting officer's role, is steps 4-10, or from definition of purchase requirement through contract administration. The process is meant to result in ownership of the quality and quantity of needed item or service at the proper time for a fair and reasonable price. The requisitioner defines the requirement; the contracting officer is responsible for the acquisition plan and subsequent steps [Ref. 10].

H. THE ACQUISITION ENVIRONMENT

The environment within which the contracting officer functions consists of guidance levied by other persons, branches of Government, and contractors. Figure 2 depicts the acquisition environment. The contracting officer contracts for an end item or service. That end item or service is structured, specified. The environment is less defined than the item or service.

For purposes of this thesis, the writer has categorized the sources of guidance as governmental--including executive, legislative, and judicial--and non-governmental. These

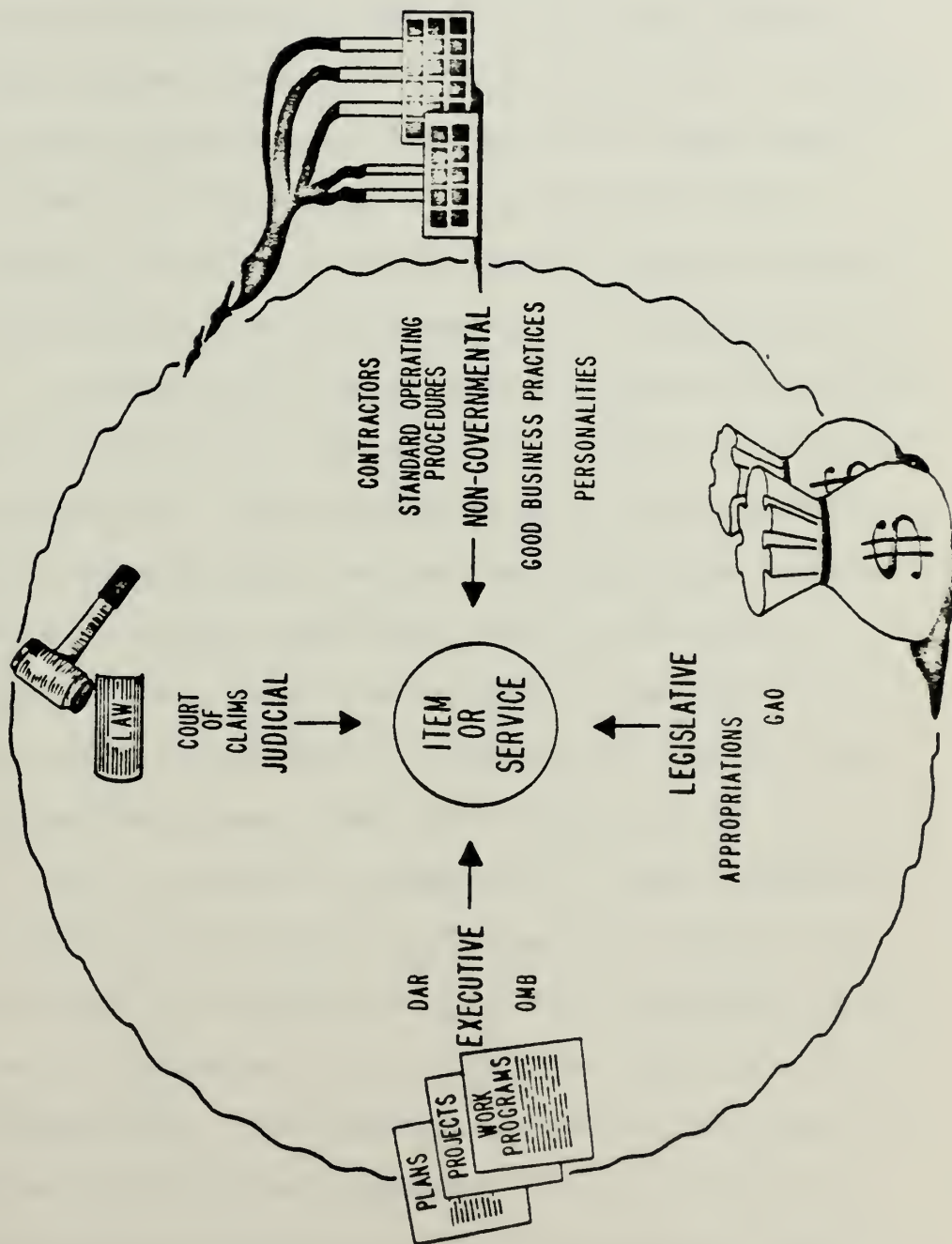


Figure 2. The Acquisition Environment

sources of guidance are discussed in the next four sections. The discussion is general, includes examples, and attempts to provide a description of the acquisition environment.

1. Guidance Emanating from the Legislative Branch

Guidance emanating from the Legislative Branch may be taken in order from basic documents to the more specific documents. The United States Constitution, Article 1, Section 8 states that the Congress shall have power "To make Rules for the Government and Regulation of the land and naval Forces:" likewise, Section 9 states that "No Money shall be drawn from the Treasury, but in Consequence of Appropriations made by Law." Another basic law providing guidance for Government contracting officers is Title 10, U.S. Code, Chapter 137 concerning procurement. The specific statute which governs acquisition is commonly known as the "Armed Services Procurement Act of 1947." Other individual public laws state a variety of regulations, some of which apply specifically to contracting issues. For instance, through P.L. 96-527, the Congress appropriated Fiscal Year 1981 funds for DoD. A copy of that law is included in Appendix A. Other examples of laws pertaining specifically to contracting are P.L. 95-521 wherein ethics is addressed; P.L. 91-379 concerning value; P.L. 95-507 which addresses a socio-economic goal; P.L. 96-83 concerning competition. The numerous volumes of the Code of Federal Regulations codifies documents [Ref. 7]. Title 41 of the Code of Federal Regulations (CFR) addresses "Public

Contracts and Property Management." Chapter 1 of that title is entitled "Federal Procurement Regulations;" Chapter 105 is "General Services Administration;" Chapter 32 is "National Defense" procurement. The CFR is updated annually in quarterly segments. Between updates of the Code of Federal Regulations, the regulations are disseminated in the periodical "Federal Register" [Ref. 7].

In addition to writing legislation, Congress houses and directs the activities of the General Accounting Office (GAO). The GAO was created by the Budget and Accounting Act of 1921 to provide several functions. Among those functions are three: the performing of investigations, the deciding of contractor protests, and the rulings by the Comptroller General, head of GAO. The actions which GAO takes may affect the contracting environment. First of all, the GAO performs investigations at the request of Government officials. For example, a 1979 GAO report for the Secretary of Defense on defective pricing "...recommend[ed] that the contracting officer determine the allowability of contingency and warranty costs" [Ref. 11:6]. Such a ruling could influence subsequent actions of contracting officers. Secondly, GAO provides a forum and considers contractor protests. A contractor may file a bid protest with the GAO as well as with the contracting officer. Whether filed before or after award, the protest may delay or otherwise affect the contract in question [Ref. 12:101]. Thirdly, the Comptroller General may rule on issues which concern those persons involved in acquisition. For

example, 55 CompGen 3-131632 concerning Transportation and Allowances states that contracting officers will consider transportation costs in determining overall lowest cost to government. As discussed, the Legislative Branch offers guidance for contracting officers through public law and rulings.

2. Guidance Emanating from the Executive Branch

The Executive Branch also is involved with procurement matters. One form of that involvement is the Presidential executive order. For example, Order #11222 dated May 1965 deals with Ethics [Ref. 13:69]. Other examples of involvement are the Office of Management and Budget (OMB) Circular A-109 which contains guidelines on major systems acquisition, and Circular A-76 on Commercial Industrial Type Activities. Yet another influence is that of the Office of Federal Procurement Policy (OFPP), an arm of the Executive Branch. With authority over all procurement using appropriated Government funds, OFPP directs overall procurement policy, research, data, and training [P.L. 93-400]. Through OFPP the Executive Branch attempts to provide a uniform approach to Federal procurement [P.L. 93-400]. However, even prior to the charter of OFPP in 1974, DoD had attempted uniformity in procurement. For instance, the current Defense Acquisition Regulations (DAR), formerly called the Armed Services Procurement Regulations (ASPR) of 1947, addresses a myriad of contracting considerations. A list of general subdivisions of DAR is provided for the reader in Appendix B. An example of the

type of influence the DAR has on the procurement process is the basic tenet dealing with competition for contracts [Ref. 8:1-300]. The two methods of contracting--formal advertisement and negotiation--both provide price competition, but the DAR states that formal advertisement is preferred. The DoD, therefore, offers guidance to contracting officers through the DAR, and may also issue directives and instructions which contain guidelines. For example, DoD Directive 5000.1 and DoD Instruction 5000.2 contain guidelines on major system acquisition. Agencies within DoD may each complement, but not repeat or contradict the DAR, directives, and instructions, according to the Armed Services Procurement Act of 1947. Moreover, the agencies issue directives and instructions which implement orders from higher authority. Examples of documents containing regulations of the agencies are the Army Procurement Procedures, Navy Procurement Directives, and Air Force Procurement Instruction.

Executive departments other than DoD may affect the acquisition environment. The following is a partial list of departments or agencies and an example of the means whereby the department or agency affects contracting.

State:	Arms sales to foreign governments
Treasury:	Cash management for goods, services
Justice:	Legal advice; fraud prosecution
Interior:	Land acquisition
Agriculture:	Animal and plant inspection

Commerce:	Transportation, patents; specifications standards
Labor:	Wages, Labor Surplus Area designations
General Services Administration:	Procurement of federal supplies

As indicated above, most, if not all, of the departments in the Executive Branch may have an influence upon the acquisition environment.

3. Guidance Emanating from the Judicial Branch

The Judicial Branch also is involved with Government contracting in at least three ways. First, the Court of Claims was established to consider disputes and claims against the Government. Second, protests may be considered by courts. With the Scanwell Laboratories case (1970), a federal court first considered protest of contract award [Ref. 14:186]. Third, "...[M]any [contracting] clauses represent the cumulative result of seriatim responses to decisions of courts and administrative agencies...." [Ref. 15:393]. In other words, as with judicial matters in general, a ruling cited in a previous case may dictate the opinion for similar and subsequent actions.

4. Guidance Emanating from Non-governmental Sources

Influences that are non-governmental may also affect the contracting officer. Included in the non-governmental source are influences that originate within the government but are not explicitly included in the guidance emanating from the legislative, executive, and judicial branches. For

purposes of analysis this writer has categorized these influences as organizational, goal-oriented, technological, and personal relationships; the influences will be discussed in that order.

Organizationally, the contracting officer recognizes guidance from fiscal limitations, budgets, priorities, and good business practices [Ref. 8].

Goals or objectives of the command may also impose guidance upon the contracting officer. For instance, the training of personnel may be a goal for the year and take precedence over upkeep of equipment for a while.

Technology or "state of the art" influences contracting decisions. Where there is a requirement, the contracting officer must scan the market for the desired item [Ref. 8]. If there is no commercial item available, alternatives must be considered either by the contracting officer, the requisitioner, or both.

Another consideration that may influence the contracting officer is that of personal relationships. Acquisition involves communication among people. That communication involves not only seeing, hearing, talking, writing, reading, listening, but also understanding. The flow of information may be precise and direct, but also may be flavored with personality conflict, inuendos, and irrelevant behavior. While there needs to be cooperation and rapport, such may not exist in dealing with a host of individuals. As Nierenberg, author of Fundamentals of Negotiating, says about negotiating, a

goal of contracting may be to "...convert divergent interests into channels of common desires" [Ref. 16:22]. The legislative, executive, and judicial guidances do not necessarily insure the attainment of that goal.

I. SUMMARY

The previous discussion described the current acquisition system. The process of acquisition was viewed as communication of needs. The acquisition steps were outlined and defined. The procurement environment was described in relation to governmental and non-governmental considerations.

II. THE YEAR END SPENDING ENVIRONMENT

A. INTRODUCTION

Chapter I described the acquisition environment. Chapter II discusses year end spending and describes the particular acquisition environment at the end of the year. The concern over waste and pending legislation to eliminate waste in year end spending is discussed. The DoD experience with year end spending limitations is identified. Finally, the alternative of motivation and reward is offered as a solution to the year end spending problem.

B. THE ACQUISITION ENVIRONMENT AT THE END OF THE YEAR

Sherwood found that during the years 1971-1976 the Department of Defense obligated more funds at the end of the fiscal year than at other times of the year [Ref. 4:67]. Typically the DoD contracting environment at the end of the fiscal year involves a greater proportion of dollars and number of contract actions than the rest of the year [Ref. 3:1]. Some of the work is performed on computers, which allow an increased number of acquisitions to take place. Trill and Porter in Purchasing Magazine give examples of the use of computers in contracting [Ref. 17:89]. Computers can be used to store information about contractors and their products, to sort information about products, to retrieve information such as the status of orders, and to type purchase orders. Thus much work can be performed quickly as portions of the process are mechanized.

The acquisition environment at the end of the year is commonly described by the phrase "hurry-up spending," [Ref. 2:1] which characterizes the increased number of obligations which takes place during the last two or three months of the fiscal year and ends at 2400 hours on September 30. This section will cite and discuss recent statements by Government and private persons concerning the acquisition environment at the end of the year.

Several Congressmen, in statements, have asserted that there is a year end spending problem. Mr. Jack Brooks (D) Tex, Chairman, H.R. Committee on Government Operations, reports that "The problems associated with compressed yearend obligations and the abuses which have been discovered to occur at the end of the year are matters of grave concern to Congress...The abuse in year-end spending practices is widely recognized...." [Ref. 18:10,14].

Mr. William S. Cohen (R) Maine, Member, Senate Subcommittee on Oversight of Government Management, in a letter to Mr. David Stockman, Director of the Office of Management and Budget (OMB), stated that "Every one of the [ten federal] agencies and departments reviewed by the Subcommittee had 'hurry-up spending' [year end spending] abuses [waste]" [Ref. 19:1].

In addition to Congressmen, other Government officials are aware of year end spending. Thomas Anderson, Director of Office of Procurement, Department of Energy, writes, "To those of us in the procurement profession, this [thirty percent of federal spending in the last two months of the fiscal year] is

not news [Ref. 20:5]. As well, Michael Blumentahl, former Treasury Secretary, is quoted as saying that in the last couple of months of the fiscal year "you are literally pushing money out the door with a wheelbarrow" [Ref. 21:A-1]. However, officials in the Executive Branch budget office say that such statements are an exaggeration and that the acceleration does not involve a substantial amount like billions of dollars, but rather less [Ref. 21:C-11]. An interested reader in response to the aforementioned Times article wrote the following letter:

To the Editor:

On Aug. 16 The Times published a front page story of the rush by Federal officials to spend their appropriations, as if that rush were news. When I was in college 55 years ago, I was taught the rush happened every year. I assume that it has continued through the intervening period.

Morton Pepper
New York, Aug 17, 1979
[Ref. 6:26-6]

The foregone discussion presents recent statements concerning a year end period of increased acquisition activity.

C. THE CONCERN ABOUT WASTE IN THE YEAR END ACQUISITION ENVIRONMENT

A United States Senate Subcommittee concludes from evidence obtained from ten Federal agencies that the DoD is one of the departments which has wasted public funds at the end of the year by (1) buying unneeded items, (2) employing anti-competitive practices, and (3) mis-representing obligations accounts [Ref. 3:7]. The subcommittee report states that the environment is one of rushed, needless spending brought on by the increased number and dollar amount of contracting requests.

Additionally the subcommittee report states that some of the abuses are brought about simply to prevent the lapse of funds which may cause reductions in future appropriations. The Subcommittee concludes that at least two billion dollars were wasted each fiscal year because of the "hurry" involved.

The General Accounting Office (GAO) reports that results of year end spending include incongruity with laws and regulations, negative impact on personnel morale, and lower quality of acquired Federal items and services [Ref. 22:5 and 23:ii, iii].

A disproportionate amount of money obligated at the end of the year does not necessarily designate waste, however. At least three alternative reasons for year end spending are cited. In the first place, the procurement process begins when an agency reviews its mission, ascertains a need, and defines a requirement. The requisitioner and contracting officer can then plan for actual acquisition of the item or service. The actual obligation of funds for the acquisition may come late in the fiscal year because of the time involved with such planning. Therefore, what seems to the observer to be waste because of a hurried process may actually be the fruition of much planning. If the use of funds were recognized when bills are paid, rather than when the goods and services are contracted, year end obligations may not appear excessive and wasteful [Ref. 24:52].

There is a second false appearance of waste. Oftentimes the federal agencies under attack for wasteful year end spending

and lack of proper planning do not even know how much money is appropriated until after the beginning of the calendar year--three months into the fiscal year. "Delays in the enactment of appropriations disrupt agency operating plans and may lead to year-end surges" [Ref. 25:3]. On the other hand, as a GAO report states, some actions can be taken before funds are appropriated and allotted [Ref. 23:11]. An example of an early action would be planning the procurement strategy, i.e., type of contract, place of delivery. Continuing resolutions do allow the agencies to spend at a previous rate. If agencies delay obligations, though, and then are faced with appropriations at a less moderate level than expected, there is less time to expend more funds on needed items. "Delayed appropriations lead to instability in long-term procurements...." [Ref. 26:29]. The governments of other countries create similar situations involving delayed appropriations. For an indepth study, see Fiscal Policy in Seven Countries [Ref. 27].

A third possibility of year end spending not involving waste can be cited. After having met higher priority obligations, requisitioners can fund lower priority items at the end of the year. The expenditures for lower priority items at the end of the fiscal year may be the result of managers attempting to minimize risk. Managers may retain funds for contingencies until the end of the fiscal year so that if unplanned critical needs occur, funding will be available.

At the end of the year lower priority needs are then funded [Ref. 5:6].

Waste, then, is not inherent in increased year end spending practices. Indeed, one might argue that for a higher Gross National Product, funds should be spent completely within the appropriated time. Congress in fact requires the Government to spend money [Ref. 18:10].

Some people have suggested that unused funds be returned to the Treasury. An unidentified middle-level Federal bureaucrat stated in a letter to Mr. Alfred Kahn that

Conversations with friends in the bureaucracy made me think many public servants at all levels would support altering the system to encourage the return of leftover funds. [Ref. 21:C-11]

The Director of Economic Policy Review at the Conference Board, a private nonprofit institute studying economics and business, believes that, with new rules, leftover funds could be given back to the taxpayers [Ref. 21:C-11]. The concern about waste in the year end acquisition environment requires that waste be defined.

Defence [sic] is a Federal preoccupation, and defence [sic] expenditure is judged by standards different from those applicable to civil expenditure. Defence [sic] expenditure is also allowed to increase to whatever level appears necessary for reasons of national security and international engagements. [Ref. 27:481]

In the defense environment, where needs and items and services are complex, the waste of funds in acquiring those goods and services is difficult to delineate. However, if it is assumed that DoD employees are conscientious individuals trying to

reach identified goals, then the problem can be described as one of helping the employees achieve the organizational goals.

D. CURRENT BILLS TO LIMIT YEAR END SPENDING

There are a number of bills in Congress to limit spending during the last two or three months of the fiscal year. An annotated list of such bills follows:

1. H.R. 2204, pending in Government Operations as of December 1981, requires that not more than one-fourth of the budget authority of any department or agency of the executive branch may be obligated during the last quarter of a fiscal year.

2. H.R. 108, pending in Government Operations as of December 1981, states that no more than twenty percent of the total appropriations for an agency are obligated during the last two months of a fiscal year.

3. H.R. 2468, pending in Government Operations as of December 1981, states that no department or agency shall obligate more than twenty percent of the budgetary resources during the last two months of a fiscal year.

4. Senate 135, pending in Senate Committee on Governmental Affairs as of December 1981, limits the amount obligated by an agency during the last three months of the fiscal year to no more than ten percent of the amount obligated for the year.

Such bills, if enacted would limit procurement as well as any waste inherent in that procurement. In other words, there

would be fewer funds to spend in a wasteful manner. However, such a limitation could be enacted by simply limiting the amount of the original appropriation. Furthermore, increased spending may occur in the third quarter rather than the fourth quarter, if such a bill were enacted [Ref. 5:14].

E. THE DEPARTMENT OF DEFENSE AND YEAR END SPENDING

The DoD has been cited as one of the departments which engages in increased year end spending [Refs. 3 and 22]. Chapter III of this thesis presents statements revealing year end spending problems within DoD. Given that the year end spending issue involves DoD, the reader should also be aware that a twenty percent obligational limit in the last two months has been placed upon the DoD since 1953. Such a limitation has not eliminated year end spending within DoD. While spending has been leveled somewhat during the year, wasteful techniques and effects have not been eliminated [Ref. 3:13,14].

F. ALTERNATIVES TO THE YEAR END SPENDING BILLS

It is unlikely that the year end spending bills will resolve the year end spending issue, as the DoD data reveals. What then can be done to halt the year end spending "sprees"? This section will discuss spending controls and present an alternative solution of an improved motivation and reward system.

Consider that control is achieved by appropriating an annual fixed amount. Senator Cohen states that

Federal Program managers and budget personnel are faced with a Catch-22 situation. They're supposed to spend the public's money as carefully as possible, but if they plan effectively, budget prudently, spend less, and manage to return tax dollars to the Federal Treasury, they face the prospect of having their budgets slashed for the next year. There is simply no incentive for prudent management, no regard for the saving of tax dollars. The system is commonsense turned upside down. [Ref. 3:10]

Appropriations are based on historical data; authorizations are based on hearings plus data of the current year [Ref. 28:17]. Although the facts do not entirely support the belief, many federal employees do believe that Congress, too, operates in its appropriations on a "use it or lose it" philosophy, i.e., that spending sets the threshold for the upcoming fiscal year budget for an agency. A. Bowman Cutter, OMB, states

It [year end spending] is a problem....We should figure out some way to keep it from occurring but we should not do it in a way that ties up the whole Government in knots to get at it. [Ref. 18:6]

General George S. Patton said, "Never tell people how to do things. Tell them what to do and they will surprise you with their ingenuity" [Ref. 29:170]. There is less room for such surprises as more limitations are placed on the decision makers. Such controls as the current year end spending bills may exact such inflexibility that purchases will cost more than otherwise; compliance with excessive controls actually forces inefficiency [Ref. 30:544 and 3:14].

Congress must convince the people that current appropriations are not based on the expenditures of the prior year. Likewise, the Congress must insure that Federal supervisors

know that a lack of spending will not reduce the budget, therefore reduce the supervisor's pay or grade [Ref. 3:11].

One possible way the year end acquisition environment can be alleviated is by rewarding the rational, effective, efficient use of public funds--not by limiting obligation rates and generally punishing a lack of spending. Until increased year end spending is alleviated, however, what can the contracting officer do or help others do to facilitate acquisition of needed items in such an environment?

G. SUMMARY

This chapter of the thesis described the year end spending environment, discussed the concern for waste, and listed current bills in Congress to eliminate assumed waste. Also, this chapter discussed the DoD experience with year end spending limitations. Finally, the alternative of a motivation and reward system was offered as the means of alleviating the year end spending abuses.

III. RESULTS OF THE INTERVIEWS

A. INTRODUCTION

The purpose of this chapter is to review the research data. First, the interviewees are described as to type of work and obligation rates. Next, year end spending is identified with its causes and effects as related by interviewees. Finally, the thesis question of what can a contracting officer do or help others do to facilitate acquisition at the end of the year is considered.

B. DESCRIPTION OF INTERVIEWEES

The researcher collected data for this research through interviews with four Navy, one Army, and one Air Force supervisory contracting officers and two Navy requisitioners. One potential interviewee refused to be questioned; he was "too busy" at the end of the year (August). The interviewees are employed in the Pacific region of the United States. The facilities at which they work include a supply facility, two research facilities, two training facilities, and one operational air facility. The approximate amount which each interviewee's division obligates annually ranges from six million to one hundred and thirty million dollars for contracting officers and from two million to four million dollars for requisitioners. The types of funds included are shown in Table 1.

TABLE I
TYPES OF FUNDS

Funds	Army	Navy	Air Force
Other Procurement	X	X	X
Research, Development, Test and Engineering		X	
Operation and Maintenance	X	X	X
Weapons Procurement		X	
Aircraft Procurement		X	X
Missile Procurement	X		
Personnel, Housing			X
Military Construction		X	

C. DESCRIPTION OF INTERVIEWS

A protocol for the interviews was used as a checklist for the researcher and to guide discussions. Otherwise, the researcher attempted to create an informal, semi-structured situation wherein the interviewees could freely discuss year end spending issues. Only when interviewees strayed from the research topic did the researcher pose specific questions verbatim from the protocol. The list of questions (Table II) indicates the issues discussed, and also relates to the order of topics as presented in this chapter of the thesis. The majority of interviewees conveyed the ideas expressed in this thesis, unless the writer specifies that some number less than the majority conveyed an idea.

TABLE II

PROTOCOL

The Identity of Year End Spending

Does year end spending cause a problem for you as a Contracting Officer or for your contracting branch?

Are the problems different from those acquisition problems which occur at other times of the year?

Are there more Purchase Requests (PR's) at the end of the year?

What effects or evidences of a problem do you see?

What months do you include in year end spending?

What types of obligations are most difficult?

Do you think the quality of expenditures or obligations decreases at the end of the year?

Guidance or Constraints

What constraints effect your performance or those of your peers?

Objectives of Contracting

How do you define good service to the requisitioner?

How important to you as a Contracting Officer is the obligation of funds for goods and services?

Suggestions for Facilitating Acquisition at the End of the Year

What percentage of the PR's are processed at the end of the year?

Does the percentage vary from other times of the year?

How do you or your branch handle the increased workload?

How can more be accomplished better at the end of the year?

What can be done in advance?

Without compromising rules and regulations, what can be done by a contracting officer or others to facilitate acquisition at the end of the year?

Are there shortcuts...?

Priorities--do they aid or do they not aid you in acquiring goods and services?

What detains you from obligating funds for goods and services?

What problems do you have with the contracting officers/requisitioners at the end of the year?

What mechanical devices may aid you in the acquisition process?

In addition to formally interviewing six contracting officers and two requisitioners, the writer also held telephone discussions concerning year end spending with one comptroller, one budget analyst, one contracts manager, and two contracting officers. Even though possibly influenced by such discussions, the forthcoming analysis consists of the formal interviews only.

D. THE IDENTIFICATION OF YEAR END SPENDING

Every interviewee related that there are an increased number of purchase requests (PR's) and dollar amount of obligations at the end of the year. The number of PR's is generally stable throughout the year, except heightened during July or August through September. September is the busiest month as measured by number of PR's and dollar amount of obligations. In one of the typical examples cited, the average for the months October through June versus July through September was 135 PR's or \$6794 and 154 PR's or \$15,001, respectively.

E. CAUSES OF YEAR END SPENDING

Interviewees stated five causes for year end spending. First, the most often-mentioned cause was Congressional control. Annual funding is a form of Congressional control. Annual funding requires that the manager obligate funds within the specific fiscal year. At the end of the fiscal year when a requisitioner is aware of an account balance, the requisitioner generally tries to obligate the funds for needed items and services before the funds expire. One interviewee stated

that Congress might better control funds by program than by timing. Another responder stated that requisitioners might be allowed by Congress to carry over unobligated funds to the next fiscal year. Yet another interviewee stated that multi-year funding might alleviate some year end spending in that the requisitioner has more flexibility to obligate.

A second cause of year end spending which interviewees cited is late appropriations and apportionments. In fiscal year 1982, for instance, Congress is three months late as of December 1981 in appropriating funds. After appropriations, a systems command, a type commander, or an activity may take several more months to apportion or allocate funds to requisitioners. Therefore, the time available for acquisition is decreased. Because of pre-negotiation clearance, approval processes, and similar requirements, several months may be needed to award a contract. One interviewee related that in some cases the requisitioner receives annual funds by the fourth month of the fiscal year, leaving only eight months for the procurement planning and award actions which actually require nine months to complete.

A third cause of year end spending is the withholding of contingency funds. The people who apportion and are responsible for funds throughout the chain of command may each retain an amount for contingencies. In fact, one interviewee noted, one percent of funds is a common and unofficially suggested amount to withhold for contingencies. Interviewees indicated that managers and requisitioners withhold funds in order to

minimize the risk of violating the Anti-deficiency Act.

Interviewees related that such retention not only may force uneconomical quantities of purchases during the year, but also forces an increased obligation rate at the end of the fiscal year. At the end of the year, when the likelihood for emergencies is less, requisitioners obligate expiring funds for needed items and services.

A fourth cause of year end spending, which only one interviewee mentioned, is the obligation of funds in order to avoid a budget cut the next year. If funds are not spent, Congress or the major claimant may decrease the budgeted amount in a future year, the interviewee related.

A fifth cause of year end spending is the complexity of DoD procurement, meaning the goods and services as well as the guidance. Not only may a complex procurement require quite some time to accomplish because of approval processes, but also during that time the environment may change. For instance, the recent Indian Ocean crisis initiated changes in plans, priorities, and affected the obligation of funds for procurement and logistics. The result of such a change of plans is an aberration of the acquisition plan and an increased workload.

Generally, interviewees cited the timing and control of funds, late appropriations, the complexity of the DoD guidance, environment and procurement, and withholding of contingency funds as the causes of year end spending.

F. DEADLINES AS EFFECTS OF YEAR END SPENDING

Interviewees indicated that year end spending has an effect on the acquisition process. One effect is the apparent necessity for deadlines for submission of PR's. Because contracting officers expect increased year end obligation rates, most contracting officers attempt to even the workload by advising requisitioners as to when PR's should be submitted. Dates are decided on the basis of contracting officers' experiences with various types and dollar amounts of procurement, as well as on projected workload. High dollar value, technical PR's requiring the signature of higher authority, then, typically must be submitted as early as March in order to be contracted for by September. While every interviewee indicated that deadlines are necessary and are employed, every interviewee also stated that deadlines are sometimes ignored by requisitioners. One reason cited for the late submission of requests is that of the exercising of command prerogatives to contracting officers. Because of the authority of the officer making the request, it is likely that the item will be bought. Another example of a deadline not being met at times when the contracting officers are already working within tight schedules is the arrival on the deadline date of an improperly or incompletely documented request. An insufficiently documented or special request can over-extend the staff and possibly delay action on other PR's. An analogy may be made with the airline agency bookings to a popular city during the peak tourist season. While the agencies attempt to forecast the type of aircraft

needed and the passenger load, the agencies may find that extra passenger is one too many; one person cannot be transported and must await another flight. The extra person could have the effect of detaining one passenger from each subsequent flight. Similarly, the difficult or late PR may delay subsequent obligations until the end of the year. Additional requests then accumulate until the last day of the fiscal year (FY) after which time the annual funds can no longer be used to finance the acquisition.

Compliance with deadlines is a pertinent issue to interviewees. Several interviewees stated that sometimes requisitioners change requests to smaller dollar amount items simply because an earlier deadline was missed. For example, while the purchase requirement may be a desktop computer, a less capable handheld calculator may be requested.

One interviewee mentioned the problem associated with deadlines of when, how, and to whom to disseminate deadlines. Requisitioners must be informed as to the importance of timely submittal, if they are expected to comply with deadlines.

G. OTHER EFFECTS OF YEAR END SPENDING

Interviewees related that requests at the end of the year vary little in any respect except numbers from the requests at other times of the year except as to the number of requests. There are, however, eight effects of the increased number of requests which interviewees cited. First, the increased number of requests creates a backlog of requests because there is more work but the same number of workers--both

contracting officers and clerical employees. In reaction to the backlog of requests, requisitioners sometimes raise the priority on requests. The contracting officer then faces the situation of numerous high priority requests, each to be contracted for in a lessened amount of time. As one interviewee stated, "If everything is priority, nothing is."

Second, as an effect of year end spending, needed items or services may not be acquired. For example, toward the end of the year construction contractors in a remote area may not even bid on a Government job because they are over-extended and cannot acquire another bond or loan. If the bond or loan is necessary for the construction, without such the construction does not take place. Not only is the construction not realized, but also the construction may cost more when contracted for in a future year. An interviewee cited another example of needed items not being acquired because of anticipated year end spending. Power regulators which could save dollars could not be purchased because the request was submitted past a deadline. The next year there were no funds for the power regulators.

Third, year end spending may affect value. The majority of interviewees stated that value may be decreased as a result of mistakes or omissions in work performed hurriedly. A higher price may be the result in instances when negotiation time is lessened, one interviewee stated. Such waste is a result of the acquisition process which is limited by time, and is unintentional, interviewees stated.

Fourth, an increased number of protests is an effect of year end spending. Possibly protests are more numerous because the contracting process is performed more hurriedly or because contractors wish to delay award to competitors, an interviewee said.

Fifth, at the end of the year there is an increased number of requests for habitability items, such as carpet and furniture, several interviewees stated. While such items are needed during the year, the priority is lower than that for other requests. Only at the end of the year, when more important needs have been met, will the requisitioner fund such habitability items.

Sixth, human effects of year end spending were also noted by interviewees. Training and leave are not approved at the end of the year. The lack of leave is especially disheartening because the parents cannot be away from work at the time when children are out of school. Overtime, however, is approved. Employees become tired, tense, grouchy, and morale is sometimes low, interviewees stated.

Seventh, one interviewee has noticed that as a result of reprogramming of funds at the end of the year, some needed items and services such as street repaving have been obtained. During the earlier portion of the fiscal year, those items and services were not funded.

Eighth, interviewees indicated that contracting officers do not ignore guidance at the end of the year. Mistakes are not made purposefully, but rather are the result of work

performed hurriedly and with no time remaining for reconsideration. At the end of the year there are the same guidance, the same number of workers, but more work to be done. In the words of one interviewee, "...the funnel does not get bigger."

H. FACILITATING ACQUISITION AT THE END OF THE YEAR

If the guidance does not change and there are an increased number of requests at the end of the year, what can the contracting officer do to effectively and efficiently process the increased number of requests at the end of the year?

All of the contracting officers interviewed stated that their job is to obligate funds for requested items and services. Accordingly, several respondents stated that the job can be designated as good service when (1) the specified items or services are delivered on time, (2) for a fair and reasonable price, (3) the customer is satisfied, and (4) the contracting officer gives courteous service. How can the contracting officer effectively and efficiently accomplish the above-stated objectives? For the purposes of this analysis, the writer has categorized responses as planning, management, mechanical, and human. Planning includes programs or actions considered before acquisition takes place; management includes controls and skills employed in acquisition; mechanical includes automatic devices; human includes those parameters relating to psychological and social behavior.

1. Planning

Interviewees related that, in order to facilitate acquisition, the requisitioner and contracting officer should plan. The contracting officer should be involved with the requisitioner's procurement plan beginning with the definition of purchase requirement. Such early communication allows the contracting officer, for example, to plan small business set-asides, request current wage rates, initiate an environmental impact study. As the procurement is further specified, the contracting officer may designate acquisition milestones, prepare a solicitation package, or perform necessary contractor evaluations.

One management planning system currently in use is the Target Award Date (TAD) concept. Several interviewees stated that from the knowledge of complexity of procurements and time remaining, a contracting officer estimates the likely award date for a contract. The contracting officer can then plan additional work in relation to the already assigned work. If a new request is submitted, the contracting officer can advise the requisitioner as to the likelihood of its being acquired. Earlier requests have priority over later requests, all other things being equal. Through use of the TAD system the contracting officer can more objectively assess current workload, and management can evaluate workloads and employee performance.

While planning is commendable, planning is not always viable, several respondents noted. Even though a PR can sometimes be initiated before funding is apportioned, there are

times when funding is required first. For example, engineers must be funded before they can be hired, or begin designs, drawings, or specifications. Preparations such as making certain that needed supplies and forms are available can facilitate acquisition at the end of the year.

Several interviewees recognized that it behooves managers and requisitioners to prepare a "wish list" for the end of the year. By being ready to obligate funds, a requisitioner can seize the opportunity for spending remaining funds--either those which were contingency or reprogrammed, and those which were originally entrusted to the prepared requisitioner or to another person. One contracting officer stated that the facility at which he works receives more dollars at the end of the year than planned originally, because he is prepared to obligate the expiring funds.

2. Management

Management, for purposes of this analysis, includes controls and skills employed in acquisition. Interviewees stated that acquisition can be facilitated by fiscal planners, management, requisitioners, and contracting officers. Fiscal planners such as type commanders, systems commands, and controllers can facilitate acquisition by releasing funds soon after appropriations. Requisitioners could then begin planning and acquisition actions at earlier dates.

Upper and middle level management can facilitate acquisition by controlling other resources in conjunction with procurement funds, one interviewee stated. For example, if

a staff is given extra funds for prototype production, that staff should also be given extra funds for engineering talent; otherwise, the prototype cannot be designed and improved.

Requisitioners can also facilitate acquisition by inducing increased obligations, if necessary, so that more funds are budgeted in future years, one interviewee stated. Otherwise, there is a vicious cycle wherein a requisitioner has too few funds to accomplish all plans; at the end of the year extra funds are received; the late funds do not allow time for obligations. Other interviewees stated that the requisitioner might also request from higher authority that funds be reprogrammed or extended. Extended funds allow acquisition after the original expiration date. Reprogrammed funds allow the acquisition of the most needed items and services within an appropriation account. Requisitioners might also facilitate acquisition by writing definitive specifications.

Contracting officers might facilitate acquisition in several ways, as noted by interviewees. First, the contracting branches might show, through employee workload comparisons, that more contracting officers are needed to accomplish acquisition. Thus, the funnel does become bigger, as it needs to be at the end of the year; more work can be accomplished. Presently the excess work is accomplished in overtime.

There is a second means whereby contracting officers might facilitate acquisition. Especially when there are not enough contracting officers for the workload, supervisors should troubleshoot rather than micromanage employees, one

interviewee stated. For example, the supervisor and employees may set goals and decide upon evaluation measures. The supervisor then encourages employees to work independently, but to ask questions when necessary. The supervisor must then be available for consultation with employees. One evaluation measure in particular appears to facilitate acquisition, an interviewee observed. When PR's are logged out with contracting officers, and the number and age of PR's are monitored for evaluation purposes, the officers tend either to work on the request or return it to the requisitioner promptly for rework. In other words, PR's do not pile up on the desks of contracting officers, with no action taken.

A third skill for facilitating acquisition at the end of the year is for contracting officers to eliminate contract renewals from the June through December workload. For example, guard services and ground maintenance are on-going services which may be timed to completion in January through June.

A fourth means of facilitating acquisition is for contracting officers to encourage comptrollers and requisitioners to be prepared for and to allow obligations early in the year. Requisitioners and contracting officers both should be aware of complexity of buys and probable leadtimes. Likewise, both should anticipate problems such as extended time needed for higher authority approval and signature.

Interviewees noted a fifth means whereby contracting officers can facilitate acquisition. Requests for bids may be issued subject to availability of funds (SAF). Thereby

some procurement action, such as contractor evaluation, may be taken prior to receipt of funds. Additionally, while a contract is written for an extended timeframe, it may be funded incrementally. Since the contract is formulated only once, acquisition is facilitated.

A sixth means of facilitating acquisition involves the source of the acquisition and the type of agreement. For example, the acquisition of items from the General Services Administration (GSA) might shorten acquisition time; however, only certain items are available from GSA. The provision of Government Furnished Equipment (GFE) might also facilitate acquisition by shortening leadtimes for contractors. However, there are issues such as liability and late Government deliveries involved with entrusting GFE to contractors. A Blanket Purchase Agreement (BPA) might also facilitate acquisition. However, there is currently a ceiling of five hundred dollars for an item over which a BPA may not be employed. While sole source contracts may facilitate acquisition, that type of procurement must be justified. One interviewee stated that the use of relevant and recent contract prices from a procurement may facilitate a later acquisition in that the audit or cost analysis need not be so extensive as otherwise. However, in cost analysis each element of the cost must be scrutinized by the contracting officer and certified by the contractor as current, accurate, and complete.

Other types of agreements and contracts may also facilitate acquisition by decreasing the time involved with individual

contracts. One suggestion is the use of Basic Ordering Agreements (BOA's). The BOA is the agreement for items which will be ordered at a future date. While the BOA may facilitate acquisition, not all items are appropriate to include in such an agreement. Usually appropriate items are those bought on a recurring basis from a particular singular source. An indefinite delivery contract may also facilitate acquisition. Such a contract does not specify the number or date of delivery of items; rather that information may be supplied at a later date. Another contract type which may facilitate acquisition is the letter contract, whereby the contractor is authorized to proceed with work before the contract is definitized. Yet another contract is the one written with options which can be exercised at a later date and without undue additional contract action.

A seventh means of facilitating acquisition involves general management actions. For instance, interviewees noted, at the end of the year the contracting officers may work only with the highest priority PR's, Casualty Reports (CASREP's), and expiring funds. Expiring funds PR's might be color-coded, designating the importance of timely action.

Five interviewees stated that any action which facilitates acquisition should be taken--except the illegal actions. Interviewees cited the following examples of shortcuts:

- Obtain the necessary signatures of higher authority in parallel when possible.

- Phone rather than mail solicitations or other information to offerors; however, if the offerors are numerous, such phoning does not save time.

-- If a contractor has recently been found capable of performance, do not perform another preaward survey to ascertain capability.

-- Consider positive past performance in selecting contractors. Not only is acquisition facilitated, but also the requisitioner and user are likely to be pleased with the item or service. For example, a contractor who always meets delivery dates is likely to continue to do so if possible.

-- Send a telegraphic notice informing the company of award of contract.

3. Mechanical

The use of mechanical devices can facilitate acquisition, respondents noted. Specifically, copy machines, electric typewriters, and computers can speed up the acquisition paperwork. Sufficient phone lines can also facilitate acquisition, one interviewee stated, by not requiring that contracting officers spend an inordinate amount of time waiting for a dial tone.

4. Human

The interviewees emphasized that some of the most valued suggestions for facilitating acquisition involved the human factor. Stated one interviewee, "The problem and the answer is the people." Every responder stressed the importance of communication between contracting officer and requisitioner in particular. In some cases the interviewees discussed the importance of communication among contractor, comptrollers, and other DoD personnel. By communicating with contractors,

for example, contracting officers remain aware of marketplace conditions. The information obtained from interviewees indicated that the contracting officer and requisitioner should begin communication early in the acquisition process. The content of communication is also important. The requisitioner should designate an actual--not desired--Required Delivery Date (RDD), one interviewee noted. Because the priority system does not always translate properly or sufficiently, requisitioners should also brief contracting officers as to the relative importance of the acquisition. For instance, the knowledge of the relative importance of an item being available before the sailing date of the ship may facilitate acquisition. The contracting officer should be consistent in dealing with requisitioners so that requisitioners can learn the acquisition system. Honesty and trust can be enhanced and communication can be improved. One interviewee suggested that the contracting branch hire contract managers to work with the requisitioners' divisions, thereby building lines of communication and possibly rapport.

Acquisition training and education may also facilitate acquisition, several interviewees stated. Through training, the contracting officer becomes knowledgeable and experienced; the requisitioner is trained to write specifications which are not unduly restrictive, and to list known sources, for instance. Acquisition is facilitated in that work is more often performed properly the first time; rework is not necessary.

Trained, experienced contracting officers are not readily available, however, interviewees noted. Moreover, the turnover of contracting officers is frequent. Employed contracting officers should be encouraged to be innovative and decisive in acquisition, several interviewees stated. Not only does such encouragement build the confidence and morale of employees, but also frees supervisors for managerial tasks. Supervisors can help by employing more workers when needed, thereby decreasing the workload. One interviewee noted that his branch is staffed for the end of the year workload.

Several interviewees stated that, because of the increased workload at the end of the year, the contracting officers may facilitate acquisition by approaching the demanding job with a positive attitude.

Personalities are also a factor in the acquisition process, interviewees indicated. Employees tend to become tired and perhaps tense or grouchy at the end of the year. At such times, communication is more difficult. In order to avoid conflict, employees may attempt a positive attitude toward work and others.

Values which are important to several interviewees are those of dignity and pride. Dignity may be heightened through the support which a Commanding Officer gives the contracting officers, one interviewee stated. Price can be realized through reward and appreciation shown by all employees involved in acquisition. A thank you phrase or a compliment

from a contracting officer or a requisitioner to the other facilitates acquisition--especially in the long run.

I. SUMMARY

This chapter reviewed the research data. Interviewees were described as to type of work and funds obligated. Interview data that related to the causes and effects of year end spending were identified. Finally, the observations of interviewees concerning what a contracting officer can do to facilitate acquisition at the end of the year were presented.

IV. ANALYSIS, CONCLUSIONS, AND RECOMMENDATIONS

A. INTRODUCTION

This chapter will analyze the data gathered both from the literature review and from the interviews. The analysis will be presented in the same order as in the previous chapter; that is, first, the identification of year end spending, the causes and effects, and the the suggestions for facilitating acquisition at the end of the year. Conclusions will be interspersed where applicable. Recommendations will follow in the last major section.

B. THE IDENTIFICATION OF YEAR END SPENDING

Every interviewee indicated that year end spending does occur within the DoD. That is, there are an increased number and dollar amount of obligations at the end of each fiscal year, even though Congress has placed a limitation on the DoD of such obligation.

Conclusion 1: Year end spending is a problem in that demands placed on the contracting organizations lade the ability of the organizations to perform.

C. CAUSES OF YEAR END SPENDING

Senator Cohen (R) Maine has said, "Yearend spending is the culmination of a three act tragedy, in my opinion, in which the agencies, the White House, and the Congress share triple billing" [Ref. 5:3]. Interviewees indicated similar causes of year end spending. First of all, Congress attempts

to control funds by appropriating annual funds. Such annual funding does not fit every situation or program. For example, because of economies of scale, complete program funding may be more rational. Multiyear funding or funding by program may also be more rational in some cases. However, even multiyear funding may not alleviate end of the year spending, for end-of-the-last-year spending would probably occur. To paraphrase Parkinson, federal spending expands so as to fill the time available for the obligation of funds [Ref. 31]. Second, although continuing resolutions allow spending at a prior rate, acquisition is curtailed in some instances until the end of the fiscal year because of necessary plans and required actions prior to the acquisition.

Conclusion 2: Congress does contribute to increased year end spending through late appropriations.

The DoD (agencies) and the Executive Branch (White House) also contribute to increased year end spending. For instance, even though there are requirements throughout the year, managers and requisitioners withhold funds for emergencies. Such contingency funds decrease the probability that one will violate the Anti-deficiency Act, interviewees noted. Donnelly found that three-fourths of the shore commands surveyed maintain contingency funds [Ref. 32:228]. While employees engage in planning for acquisition, they also "watch out for their sixes," meaning that they make sure they are covered. It is interesting to note, however, that although there have been referrals, no employee of DoD has ever been convicted of

violation of the Anti-deficiency Act [Ref. 33]. Still, employees withhold funds for obligation until the end of the fiscal year when the likelihood of an emergency is lessened.

Conclusion 3: Withholding of contingency funds is a major contributing factor to the increased spending at the end of the year.

There appears to be inadequate planning and follow-through on plans within the DoD acquisition environment. One reason for a lack of planning is the complexity of the DoD acquisition needs. Defense can sometimes be planned, but sometimes must meet the threat of the moment. Another reason for the apparent lack of planning is the complexity of the acquisition guidance. For example, there is even guidance concerning from whom stainless steel flatware may be purchased [Ref. 26:K-5].

Conclusion 4: Acquisition needs and guidance are complex, which may inhibit the effective and efficient use of funds at the end of the fiscal year.

As to the causes of year end spending, only one interviewee stated that year end spending occurs in order to deplete funds so that the budget for the future year will not be decreased. Such a cause for year end spending apparently is not as common as suspected by Senator's Cohen and others.

D. EFFECTS OF YEAR END SPENDING

There are at least four effects of year end spending. First, deadlines are established in many cases in order to

avoid year end spending. However, deadlines are not always met. Moreover, there are undesirable consequences associated with deadlines. For instance, even though the acquisition of an item is of utmost importance, if the requisition for that item is submitted after the deadlines less important requisitions may, in effect, have a higher priority. As with the Target Award Date system, if all contracting officers have a full workload until the end of the year, and each requisition has been assigned a TAD, an additional PR must wait in the queue, or the system must be altered for that PR. Another undesirable consequence of deadlines is the missed deadline. For example, while the purchase requirement may be a desktop computer, a less capable calculator may be requested simply because the higher dollar amount deadline of the computer has passed. In such a case, the timeliness of the acquisition becomes paramount to the relative effectiveness of the items.

Deadlines may be ignored, however, at the end of the year by contracting officers as well as requisitioners. For instance, an item or service which has been designated as needed all year may only be acquired at the end of the year with reprogrammed or redistributed funds. In such a case, no matter what the deadline was for such an item or service, the employees attempt to acquire the needed item or service and to obligate the expiring funds.

Conclusion 5: Deadlines and priorities created to level the year end spending load may contribute to year end spending.

Second, as the research has shown, protest actions are an issue during the year end period of increased procurement activity.

Conclusion 6: Protests are more numerous at the end of the year.

Third, the requests for habitability items, such as carpet and furniture, are more numerous at the end of the year. Acquisition of such items is not necessarily a waste of the taxpayers' money. If waste is the acquisition of unneeded items and services, what is unneeded? Consider the purchase of White House china or oak desks for Congressmen at any time of the year. Some citizens may state that both purchases are wasteful; others may state that such purchases are a matter of pride, or increasing morale, or treating foreign dignitaries in a proper manner. In any case, the increased purchases of habitability items at the end of the year may indicate that such items are generally of less importance to the activity, and, therefore, are not requested until the end of the year after higher priority items have been funded.

Conclusion 7: Acquisition of habitability items at the end of the year does not necessarily indicate a waste of government funds.

Fourth, the research demonstrates that employees in contracting branches are hurried during the year end spending environment. The lack of negotiation time or time for reviewing procurement actions may result in higher prices. Furthermore, the research indicates that the year end pressure may result in low morale of contracting personnel.

Conclusion 8: Increased demands upon contracting personnel at the end of the fiscal year can result in higher prices paid for selected items and lowered morale among personnel.

E. FACILITATING ACQUISITION AT THE END OF THE YEAR

1. Planning

Planning can provide some relief from end of the year spending. However, the follow-through on plans may depend significantly on the defense environment. Procurement planning and Target Award Date systems can be beneficial to requisitioners and contracting officers in controlling the use of funds acquiring needed items. With such planning, though, the issue may arise as to which PR is more important and should be contracted for first: the one submitted earlier or the higher priority request submitted later.

Some commands do plan in the form of a "wish list" of items and services. While wish lists are prepared and sometimes allow increased flexibility for the command to obtain end of the year reprogrammed funds, such lists do generally contain requests for valid, needed items and services that are of lower priority.

Conclusion 9: Planning can help alleviate the pressures of year end spending.

2. Management

The management or control of funds involves management, requisitioners, and contracting officers. Currently there is a trend toward de-centralization of management [Ref. 26]. Mr. Ralph Preston, Senior Staff Assistant for

the Subcommittee on Defense, House Appropriations Committee, has stated that control should be allowed close to the manager at hand, for that person knows the situation [Ref. 34]. The manager at hand should be given authority and responsibility to the maximum reasonable extent, and should communicate with the higher management as to major plans and actions.

Requisitioners can facilitate acquisition by requesting a reasonable amount of funds to meet expected needs. The request should allow for inflation and may even include a stated amount for contingencies and lower priority items. Overall, the budget request should be realistic and not one which is the result of gaming or distorting needs.

Conclusion 10: Contracting officers can facilitate acquisition by tailoring contracts to purchase requests; requisitions can facilitate acquisition by requesting a reasonable amount of funds.

3. Mechanical

Mechanical devices are used to facilitate acquisition. Even the desktop computers now available have large memories which can store, sort, retrieve, and print information. A computer entry program and impact printer in use at a Naval Electronics Systems Command activity assigns requisition numbers and prints required standard forms. Such a program allows for repetitive accounting data, for instance, to be automatically printed. The same program receives and retains information on the status of PR's. Several systems are used widely in DoD. Copper Impact is a system which mechanizes Requests for Proposals; Automation of Procurement and

Accounting Data Entry (APADE) is a system which aids in the preparation of formal procurement documents.

Other devices such as the word processor or magnetic typewriter, which can type purchase orders from discs, tapes or cards, and the spirit master, which provides numerous copies quickly and relatively cheaply, aid the contracting officer by decreasing the typing workload. Additionally, items as basic as adequate phone lines, including commercial, Auto-von, and WATS, can facilitate acquisition.

Conclusion 11: The use of mechanical devices, including adequate phone lines, can facilitate acquisition.

4. Human

The suggestions which involve psychological and social actions also may be considered good management. As previously discussed, it is important that the requisitioner and contracting officer communicate early in the acquisition process concerning procurement needs. The role of the contracting officer is that of acquiring items and services to support the defense mission. The role of the requisitioner is to complete or help others complete a mission. Through understanding, mutual trust, and reinforcement through common courtesy, the two employees can better relate and better accomplish objectives. The rational, effective, efficient use of funds must be rewarded in order to perpetuate such behavior.

Conclusion 12: Communication between requisitioners and contracting officers is beneficial not only in advancing the experience and aptitude of employees

in obtaining goods and services, but also in increasing morale and confidence.

F. RECOMMENDATIONS

1. The complexity of guidance for contracting officers should be lessened to the minimum necessary for the desired results. The more flexibility the manager has, all other things being equal, the greater the opportunity for the manager to use funds effectively and efficiently.

2. It is recommended that Congress appropriate defense funds as soon after the end of the past fiscal year as is practical. To delay funding past October 1 is to ensnare the procurement process by decreasing the time available for procurement action.

3. It is recommended that procurement require fewer signatures for approval. Only the persons who can negate a procurement request should be required to sign the approval. Other interested persons can be informed either concurrently or after the fact as to action taken.

4. It is recommended that Congress not enact legislation to limit the amount of funds which can be obligated at the end of the year. Such control will not facilitate the acquisition of items and services. Tighter controls may actually promote erratic, inefficient spending behavior and discourage fiduciary competence.

5. Requisitioners should maintain a similar level of priority on requests at all times during the year, rather than

varying the priority according to the quarter in which the request is submitted.

6. Major claimants, activities, managers, requisitioners, and contracting officers should engage in procurement planning on individual requirements level to the maximum extent possible. Even though plans may need to be changed, planning is vital to successful acquisition.

7. Managers and other Government employees should encourage the rational, effective, efficient obligation of funds by increasing the rewards for employees who spend in such a manner.

8. Requisitioners and managers should request a reasonable amount of funds to meet expected needs, and should explicitly state the amount allowed for inflation and contingencies in requesting the funds.

9. Mechanical devices including telecommunications gear which can facilitate acquisition should be acquired when needed, considering the maximum workload volumes.

G. LIMITATIONS

The research consisted of indepth interviews with a sample of six contracting officers and two requisitioners. The emphasis, therefore, is on the opinions of contracting officers. Requisitioners served as a different group possibly with a different perspective. However, the researcher found that suggestions of the two groups are similar. Moreover, the researcher has no reason to believe that the results are not

reliable, valid, and typical of a larger sample. The conclusions and recommendations are tempered with findings from the literature review.

H. RECOMMENDATIONS FOR FURTHER STUDY

Further study concerning facilitating acquisition at the end of the year might well center on the opinions of comptrollers and heads of major commands. Also the study of obligational rates of multi-year funds may prove to be enlightening as to the role which Congressional control in the timing of funds plays upon stimulating year end spending. Additionally studies of specific equipment needs and the design of short-courses focused on year end spending for both requisitioners and contracting officer are necessary.

I. SUMMARY

This research analyzed year end spending at selected commands within the DoD. The research indicated that major contributing factors to the increased spending at the end of the fiscal year are the timing and control of funds, late appropriations, the complexity of DoD procurement needs and guidance, and the withholding of contingency funds. Effects of year end spending, as indicated by the research, are several: an increase in assigned priorities, the apparent need for procurement leadtime deadlines, an increase in the number of protests, an increase in the number of requests for habitability items, failure to acquire some needed items

and services, a decrease in the value of acquired items and services, lowered employee morale, and an increased number of unintentional mistakes made by contracting officers.

Efficient and effective acquisition can be facilitated at the end of the year, however, through planning, management, the use of mechanical devices, and the rewarding of employees. Specific recommendations dealing with the causes and effects of year end spending were made for facilitating acquisition at the end of the fiscal year.

APPENDIX A

DEPARTMENT OF DEFENSE APPROPRIATION ACT

PUBLIC LAW 96-527—DEC. 15, 1980

DEPARTMENT OF DEFENSE
APPROPRIATION ACT,
1981

Public Law 96-527
96th Congress

An Act

Dec. 15, 1980
[H.R. 8105]

Making appropriations for the Department of Defense for the fiscal year ending September 30, 1981, and for other purposes.

Department of
Defense
Appropriation
Act, 1981.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 1981, for military functions administered by the Department of Defense, and for other purposes, namely:

TITLE I

MILITARY PERSONNEL

MILITARY PERSONNEL, ARMY

For pay, allowances, individual clothing, subsistence, interest on deposits, gratuities, permanent change of station travel (including all expenses thereof for organizational movements), and expenses of temporary duty travel between permanent duty stations, for members of the Army on active duty (except members of reserve components provided for elsewhere), cadets, and aviation cadets; \$11,060,468,000.

MILITARY PERSONNEL, NAVY

For pay, allowances, individual clothing, subsistence, interest on deposits, gratuities, permanent change of station travel (including all expenses thereof for organizational movements), and expenses of temporary duty travel between permanent duty stations, for members of the Navy on active duty (except members of the Reserve provided for elsewhere), midshipmen, and aviation cadets; \$7,857,423,000.

MILITARY PERSONNEL, MARINE CORPS

For pay, allowances, individual clothing, subsistence, interest on deposits, gratuities, permanent change of station travel (including all expenses thereof for organizational movements), and expenses of temporary duty travel between permanent duty stations, for members of the Marine Corps on active duty (except members of the Reserve provided for elsewhere); \$2,350,086,000.

MILITARY PERSONNEL, AIR FORCE

For pay, allowances, individual clothing, subsistence, interest on deposits, gratuities, permanent change of station travel (including all expenses thereof for organizational movements), and expenses of temporary duty travel between permanent duty stations, for mem-

bers of the Air Force on active duty (except members of reserve components provided for elsewhere), cadets, and aviation cadets; \$8,976,309,000.

RESERVE PERSONNEL, ARMY

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Army Reserve on active duty under sections 265, 3019, and 3033 of title 10, United States Code, or while serving on active duty under section 672(d) of title 10, United States Code, in connection with performing duty specified in section 678(a) of title 10, United States Code, or while undergoing reserve training, or while performing drills or equivalent duty or other duty, and for members of the Reserve Officers' Training Corps, and expenses authorized by section 2131 of title 10, United States Code, as authorized by law; \$789,150,000.

RESERVE PERSONNEL, NAVY

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Naval Reserve on active duty under section 265 of title 10, United States Code, or personnel while serving on active duty under section 672(d) of title 10, United States Code, in connection with performing duty specified in section 678(a) of title 10, United States Code, or while undergoing reserve training, or while performing drills or equivalent duty, and for members of the Reserve Officers' Training Corps, and expenses authorized by section 2131 of title 10, United States Code, as authorized by law; \$302,003,000.

RESERVE PERSONNEL, MARINE CORPS

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Marine Corps Reserve on active duty under section 265 of title 10, United States Code, or while serving on active duty under section 672(d) of title 10, United States Code, in connection with performing duty specified in section 678(a) of title 10, United States Code, or while undergoing reserve training, or while performing drills or equivalent duty, and for members of the Marine Corps platoon leaders class, and expenses authorized by section 2131 of title 10, United States Code, as authorized by law; \$102,767,000.

RESERVE PERSONNEL, AIR FORCE

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Air Force Reserve on active duty under sections 265, 3019, and 3033 of title 10, United States Code, or while serving on active duty under section 672(d) of title 10, United States Code, in connection with performing duty specified in section 678(a) of title 10, United States Code, or while undergoing reserve training, or while performing drills or equivalent duty or other duty, and for members of the Air Reserve Officers' Training Corps, and expenses authorized by section 2131 of title 10, United States Code, as authorized by law; \$258,974,000.

NATIONAL GUARD PERSONNEL, ARMY

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Army National Guard while on duty under sections 265, 3033, or 3496 of title 10 or section 703 of title 32, United States Code, or while serving on active duty under section

672(d) of title 10 or section 502(f) of title 32, United States Code, in connection with performing duty specified in section 678(a) of title 10, United States Code, or while undergoing training, or while performing drills or equivalent duty or other duty, and expenses authorized by section 2131 of title 10, United States Code, as authorized by law; \$1,035,997,000.

NATIONAL GUARD PERSONNEL, AIR FORCE

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Air National Guard on duty under sections 265, 8033, or 3496 of title 10 or section 708 of title 32, United States Code, or while serving on active duty under section 672(d) of title 10 or section 502(f) of title 32, United States Code, in connection with performing duty specified in section 678(a) of title 10, United States Code, or while undergoing training, or while performing drills or equivalent duty or other duty, and expenses authorized by section 2131 of title 10, United States Code, as authorized by law; \$341,172,000.

TITLE II

RETIRED MILITARY PERSONNEL

RETIRED PAY, DEFENSE

For retired pay and retirement pay, as authorized by law, of military personnel on the retired lists of the Army, Navy, Marine Corps, and Air Force, including the reserve components thereof, retainer pay for personnel of the Inactive Fleet Reserve, and payments under section 4 of Public Law 92-425 and chapter 73 of title 10, United States Code; \$13,887,800,000.

10 USC 1448
note.
10 USC 1431 *et*
seq.

TITLE III

OPERATION AND MAINTENANCE

OPERATION AND MAINTENANCE, ARMY

(INCLUDING TRANSFER OF FUNDS)

For expenses, not otherwise provided for, necessary for the operation and maintenance of the Army, as authorized by law; and not to exceed \$3,965,000 can be used for emergencies and extraordinary expenses, to be expended on the approval or authority of the Secretary of the Army, and payments may be made on his certificate of necessity for confidential military purposes; \$12,302,784,000, and in addition, \$5,000,000, which shall be derived by transfer from "Army Stock Fund", of which not less than \$641,500,000 shall be available only for the maintenance of real property facilities.

OPERATION AND MAINTENANCE, NAVY

(INCLUDING TRANSFER OF FUNDS)

For expenses, not otherwise provided for, necessary for the operation and maintenance of the Navy and the Marine Corps, as authorized by law; and not to exceed \$1,555,000 can be used for emergencies and extraordinary expenses, to be expended on the

approval or authority of the Secretary of the Navy, and payments may be made on his certificate of necessity for confidential military purposes; \$16,735,394,000, and in addition, \$135,500,000, of which \$13,700,000 shall be derived by transfer from "Aircraft procurement, Navy, 1980/1982"; \$86,400,000 shall be derived by transfer from the subdivision "FFG-7 guided missile frigate program" of "Shipbuilding and conversion, Navy, 1980/1984"; \$21,500,000 shall be derived by transfer from "Other procurement, Navy, 1980/1982"; \$6,900,000 shall be derived by transfer from "Research, development, test, and evaluation, Navy, 1980/1981"; and \$7,000,000 shall be derived by transfer from "Navy Stock Fund", of which not less than \$547,300,000 shall be available only for the maintenance of real property facilities: *Provided*, That of the total amount of this appropriation made available for the alteration, overhaul, and repair of naval vessels, not more than \$2,600,000,000 shall be available for the performance of such work in Navy shipyards: *Provided further*, That not less than \$3,745,700,000 of this appropriation shall be available only for regularly scheduled ship overhauls, restricted availabilities and expenses associated with the installation of equipment, improvements, and modifications scheduled to be accomplished concurrently during an overhaul or restricted availability of which not less than \$24,000,000 shall be available for such work at the Ship Repair Facilities, Guam: *Provided further*, That such amounts of the funds available for work only at the Ship Repair Facilities, Guam, may be used for work in other Navy shipyards in amounts equal to the amount of work placed at the Ship Repair Facilities, Guam, funded from other sources.

NAVY STOCK FUND

For the Navy stock fund, \$309,000.

OPERATION AND MAINTENANCE, MARINE CORPS

(INCLUDING TRANSFER OF FUNDS)

For expenses, not otherwise provided for, necessary for the operation and maintenance of the Marine Corps, as authorized by law; \$994,200,000, and in addition, \$9,700,000 of which \$8,700,000, which shall be derived by transfer from "Procurement, Marine Corps, 1980/1982"; and \$1,000,000 shall be derived by transfer from "Marine Corps Stock Fund", of which not less than \$149,800,000 shall be available only for the maintenance of real property facilities.

MARINE CORPS STOCK FUND

For the Marine Corps stock fund, \$4,108,000.

OPERATION AND MAINTENANCE, AIR FORCE

(INCLUDING TRANSFER OF FUNDS)

For expenses, not otherwise provided for, necessary for the operation and maintenance of the Air Force, as authorized by law; and not to exceed \$3,787,000 can be used for emergencies and extraordinary expenses, to be expended on the approval or authority of the Secretary of the Air Force, and payments may be made on his certificate of necessity for confidential military purposes; \$13,555,046,000, and in addition, \$56,000,000, of which \$39,600,000 shall be derived by trans-

fer from "Research, development, test, and evaluation, Air Force, 1980/1981"; \$9,400,000 shall be derived by transfer from "Aircraft procurement, Air Force, 1980/1982"; and \$7,000,000 shall be derived by transfer from "Air Force Stock Fund", of which not less than \$832,300,000 shall be available only for the maintenance of real property facilities.

AIR FORCE STOCK FUND

For the Air Force stock fund, \$28,300,000.

OPERATION AND MAINTENANCE, DEFENSE AGENCIES

(INCLUDING TRANSFER OF FUNDS)

For expenses, not otherwise provided for, necessary for the operation and maintenance of activities and agencies of the Department of Defense (other than the military departments), as authorized by law; \$4,056,793,000, and in addition, \$20,000,000, which shall be derived by transfer from "Defense Stock Fund": *Provided*, That not to exceed \$4,854,000 can be used for emergencies and extraordinary expenses, to be expended on the approval or authority of the Secretary of Defense, and payments may be made on his certificate of necessity for confidential military purposes: *Provided further*, That not less than \$63,100,000 of the total amount of this appropriation shall be available only for the maintenance of real property facilities.

DEFENSE STOCK FUND

For the Defense stock fund, \$35,000,000.

OPERATION AND MAINTENANCE, ARMY RESERVE

For expenses, not otherwise provided for, necessary for the operation and maintenance, including training, organization, and administration, of the Army Reserve; repair of facilities and equipment; hire of passenger motor vehicles; travel and transportation; care of the dead; recruiting; procurement of services, supplies, and equipment; and communications; \$488,393,000, of which not less than \$27,400,000 shall be available only for the maintenance of real property facilities.

OPERATION AND MAINTENANCE, NAVY RESERVE

For expenses, not otherwise provided for, necessary for the operation and maintenance, including training, organization, and administration, of the Navy Reserve; repair of facilities and equipment; hire of passenger motor vehicles; travel and transportation; care of the dead; recruiting; procurement of services, supplies, and equipment; and communications; \$531,435,000, of which not less than \$19,200,000 shall be available only for the maintenance of real property facilities.

OPERATION AND MAINTENANCE, MARINE CORPS RESERVE

For expenses, not otherwise provided for, necessary for the operation and maintenance, including training, organization, and administration, of the Marine Corps Reserve; repair of facilities and equipment; hire of passenger motor vehicles; travel and transportation; care of the dead; recruiting; procurement of services, supplies, and equipment; and communications; \$28,854,000, of which not less

than \$1,800,000 shall be available only for the maintenance of real property facilities.

OPERATION AND MAINTENANCE, AIR FORCE RESERVE

For expenses, not otherwise provided for, necessary for the operation and maintenance, including training, organization, and administration, of the Air Force Reserve; repair of facilities and equipment; hire of passenger motor vehicles; travel and transportation; care of the dead; recruiting; procurement of services, supplies, and equipment; and communications; \$553,680,000, of which not less than \$13,500,000 shall be available only for the maintenance of real property facilities.

OPERATION AND MAINTENANCE, ARMY NATIONAL GUARD

For expenses of training, organizing, and administering the Army National Guard, including medical and hospital treatment and related expenses in non-Federal hospitals; maintenance, operation, and repairs to structures and facilities; hire of passenger motor vehicles; personnel services in the National Guard Bureau; travel expenses (other than mileage), as authorized by law for Army personnel on active duty, for Army National Guard division, regimental, and battalion commanders while inspecting units in compliance with National Guard regulations when specifically authorized by the Chief, National Guard Bureau; supplying and equipping the Army National Guard as authorized by law; and expenses of repair, modification, maintenance, and issue of supplies and equipment (including aircraft); \$890,520,000, of which not less than \$21,300,000 shall be available only for the maintenance of real property facilities.

OPERATION AND MAINTENANCE, AIR NATIONAL GUARD

For operation and maintenance of the Air National Guard, including medical and hospital treatment and related expenses in non-Federal hospitals; maintenance, operation, repair, and other necessary expenses of facilities for the training and administration of the Air National Guard, including repair of facilities, maintenance, operation, and modification of aircraft; transportation of things; hire of passenger motor vehicles; supplies, materials, and equipment, as authorized by law for the Air National Guard; and expenses incident to the maintenance and use of supplies, materials, and equipment, including such as may be furnished from stocks under the control of agencies of the Department of Defense; travel expenses (other than mileage) on the same basis as authorized by law for Air National Guard personnel on active Federal duty, for Air National Guard commanders while inspecting units in compliance with National Guard regulations when specifically authorized by the Chief, National Guard Bureau; \$1,419,607,000, of which not less than \$28,400,000 shall be available only for the maintenance of real property facilities.

NATIONAL BOARD FOR THE PROMOTION OF RIFLE PRACTICE, ARMY

For the necessary expenses, in accordance with law, for construction, equipment, and maintenance of rifle ranges; the instruction of citizens in marksmanship; the promotion of rifle practice; and the travel of rifle teams, military personnel, and individuals attending

regional, national, and international competitions; \$825,000, of which not to exceed \$7,500 shall be available for incidental expenses of the National Board; and from other funds provided in this Act, not to exceed \$340,000 worth of ammunition may be issued under authority of title 10, United States Code, section 4311: *Provided*, That competitors at national matches under title 10, United States Code, section 4312, may be paid subsistence and travel allowances in excess of the amounts provided under title 10, United States Code, section 4313.

CLAIMS, DEFENSE

For payment, not otherwise provided for, of claims authorized by law to be paid by the Department of Defense (except for civil functions), including claims for damages arising under training contracts with carriers, and repayment of amounts determined by the Secretary concerned, or officers designated by him, to have been erroneously collected from military and civilian personnel of the Department of Defense, or from States, territories, or the District of Columbia, or members of the National Guard units thereof; \$135,850,000.

COURT OF MILITARY APPEALS, DEFENSE

For salaries and expenses necessary for the United States Court of Military Appeals; \$2,197,000, and not to exceed \$1,500 can be used for official representation purposes and, in addition, \$68,000 for "Court of Military Appeals, Defense, 1976" for the liquidation of obligations incurred for fiscal year 1976..

TITLE IV

PROCUREMENT

AIRCRAFT PROCUREMENT, ARMY

For construction, procurement, production, modification, and modernization of aircraft, equipment, including ordnance, ground handling equipment, spare parts, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including the land necessary therefor, without regard to section 4774, title 10, United States Code, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title as required by section 355, Revised Statutes, as amended; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes; \$1,076,400,000, to remain available for obligation until September 30, 1983.

40 USC 255.

MISSILE PROCUREMENT, ARMY

For construction, procurement, production, modification, and modernization of missiles, equipment, including ordnance, ground handling equipment, spare parts, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including the land necessary therefor, without regard to section 4774, title 10, United States Code, for the foregoing purposes, and such lands and interests therein, may be acquired, and construc-

tion prosecuted thereon prior to approval of title as required by section 355, Revised Statutes, as amended; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes; \$1,519,800,000, to remain available for obligation until September 30, 1983. 40 USC 255.

PROCUREMENT OF WEAPONS AND TRACKED COMBAT VEHICLES, ARMY

For construction, procurement, production, and modification of weapons and tracked combat vehicles, equipment, including ordnance, spare parts, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including the land necessary therefor, without regard to section 4774, title 10, United States Code, for the foregoing purposes, and such lands and interests therein may be acquired, and construction prosecuted thereon prior to approval of title as required by section 355, Revised Statutes, as amended; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes; \$2,582,200,000, to remain available for obligation until September 30, 1983.

PROCUREMENT OF AMMUNITION, ARMY

For construction, procurement, production, and modification of ammunition, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including ammunition facilities authorized in military construction authorization Acts or authorized by section 2673, title 10, United States Code, and the land necessary therefor, without regard to section 4774, title 10, United States Code, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title as required by section 355, Revised Statutes, as amended; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes; \$1,531,000,000, to remain available for obligation until September 30, 1983.

OTHER PROCUREMENT, ARMY

For construction, procurement, production, and modification of vehicles, including tactical, support, and nontracked combat vehicles; the purchase of not to exceed one thousand and eighty-four passenger motor vehicles for replacement only; communications and electronic equipment; other support equipment; spare parts, ordnance and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including the land necessary therefor, without regard to section 4774, title 10, United States Code, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title as required by section 355, Revised Statutes, as amended; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary

for the foregoing purposes; \$2,223,658,000, to remain available for obligation until September 30, 1983.

AIRCRAFT PROCUREMENT, NAVY

40 USC 255.

For construction, procurement, production, modification, and modernization of aircraft, equipment including ordnance, spare parts, and accessories therefor; specialized equipment; expansion of public and private plants, including the land necessary therefor, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title as required by section 355, Revised Statutes, as amended; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; \$6,110,707,000, to remain available for obligation until September 30, 1983.

WEAPONS PROCUREMENT, NAVY

For construction, procurement, production, modification, and modernization of missiles, torpedoes, other weapons, and related support equipment including spare parts, and accessories therefor; expansion of public and private plants, including the land necessary therefor, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title as required by section 355, Revised Statutes, as amended; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; \$2,766,029,000, to remain available for obligation until September 30, 1983.

SHIPBUILDING AND CONVERSION, NAVY

(INCLUDING TRANSFER OF FUNDS)

For expenses necessary for the construction, acquisition, or conversion of vessels as authorized by law, including armor and armament thereof, plant equipment, appliances, and machine tools and installation thereof in public and private plants; reserve plant and Government and contractor-owned equipment layaway; procurement of critical, long leadtime components and designs for vessels to be constructed or converted in the future; and expansion of public and private plants, including land necessary therefor, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title as required by section 355, Revised Statutes, as amended, as follows: for the Trident submarine program, \$1,088,200,000; for the T-AK FBM resupply ship conversion program, \$45,300,000; for the SSN-688 nuclear attack submarine program, \$991,700,000; for the aircraft carrier service life extension program, \$501,400,000; for the CG-47 AEGIS cruiser program, \$1,759,500,000; for the LSD-41 landing ship dock program, \$387,700,000; for the FFG-7 guided missile frigate program, \$1,510,000,000; for the T-ACOS SURTASS ship program, \$180,800,000; for the ARS salvage ship program, \$93,000,000; for the maritime prepositioning ship programs, \$318,000,000, of which not to exceed \$33,000,000 shall be for the T-AKX ship program, and for the roll-on/roll-off prepositioning ship program and the SL-7 cargo ship program, \$285,000,000; for craft, outfitting, post delivery, cost growth, and escalation on prior

year programs, \$580,100,000; and in addition, \$27,900,000 which shall be derived by transfer from the "CGN-42 class nuclear-powered cruiser program" of "Shipbuilding and Conversion, Navy, 1978/1982"; in all: \$7,455,700,000, and in addition, \$27,900,000 to be derived by transfer, to remain available for obligation until September 30, 1985: *Provided*, That none of the funds herein provided for the construction or conversion of any naval vessel to be constructed in shipyards in the United States shall be expended in foreign shipyards for the construction of major components of the hull or superstructure of such vessel: *Provided further*, That none of the funds herein provided shall be used for the construction of any naval vessel in foreign shipyards.

OTHER PROCUREMENT, NAVY

For procurement, production, and modernization of support equipment and materials not otherwise provided for, Navy ordnance and ammunition (except ordnance for new aircraft, new ships, and ships authorized for conversion); the purchase of not to exceed one hundred and seventy-seven passenger motor vehicles for replacement only; expansion of public and private plants, including the land necessary therefor, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title as required by section 355, Revised Statutes, as amended; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; \$3,037,657,000, to remain available for obligation until September 30, 1983. 40 USC 255.

PROCUREMENT, MARINE CORPS

For expenses necessary for the procurement, manufacture, and modification of missiles, armament, ammunition, military equipment, spare parts, and accessories therefor; plant equipment, appliances, and machine tools, and installation thereof in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and vehicles for the Marine Corps, including purchase of not to exceed eighty-nine passenger motor vehicles for replacement only; \$436,813,000, to remain available for obligation until September 30, 1983.

AIRCRAFT PROCUREMENT, AIR FORCE

For construction, procurement, and modification of aircraft and equipment, including armor and armament, specialized ground handling equipment, and training devices, spare parts, and accessories therefor; specialized equipment; expansion of public and private plants, Government-owned equipment and installation thereof in such plants, erection of structures, and acquisition of land without regard to section 9774 of title 10, United States Code, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to the approval of title as required by section 355, Revised Statutes, as amended; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes including rents and transportation of things; \$9,674,143,000, of which \$332,044,000 shall be available for contribution of the United States share of the cost of the acquisition by the North Atlantic Treaty Organization of an Airborne Early Warning and Control System (AWACS) and, in

addition, the Department of Defense may make a commitment to the North Atlantic Treaty Organization to assume the United States share of contingent liability in connection with the NATO E-3A Cooperative Programme, to remain available for obligation until September 30, 1983.

MISSILE PROCUREMENT, AIR FORCE

40 USC 255.

For construction, procurement, and modification of missiles, spacecraft, rockets, and related equipment, including spare parts and accessories therefor, ground handling equipment, and training devices; expansion of public and private plants, Government-owned equipment and installation thereof in such plants, erection of structures, and acquisition of land without regard to section 9774 of title 10, United States Code, for the foregoing purposes, and such lands and interests therein, may be acquired and construction prosecuted thereon prior to the approval of title as required by section 355, Revised Statutes, as amended; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes including rents and transportation of things; \$3,140,917,000, to remain available for obligation until September 30, 1983.

OTHER PROCUREMENT, AIR FORCE

For procurement and modification of equipment (including ground guidance and electronic control equipment, and ground electronic and communication equipment), and supplies, materials, and spare parts therefor, not otherwise provided for; the purchase of not to exceed four hundred and one passenger motor vehicles for replacement only; and expansion of public and private plants, Government-owned equipment and installation thereof in such plants, erection of structures, and acquisition of land without regard to section 9774 of title 10, United States Code, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon, prior to the approval of title as required by section 355, Revised Statutes, as amended; reserve plant and Government and contractor-owned equipment layaway; \$2,999,372,000, to remain available for obligation until September 30, 1983.

PROCUREMENT, DEFENSE AGENCIES

For expenses of activities and agencies of the Department of Defense (other than the military departments) necessary for procurement, production, and modification of equipment, supplies, materials, and spare parts therefor, not otherwise provided for; the purchase of not to exceed two hundred and seventy-six passenger motor vehicles for replacement only; expansion of public and private plants, equipment, and installation thereof in such plants, erection of structures, and acquisition of land for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to the approval of title as required by section 355, Revised Statutes, as amended; reserve plant and Government and contractor-owned equipment layaway; \$305,028,000, to remain available for obligation until September 30, 1983.

TITLE V

RESEARCH, DEVELOPMENT, TEST, AND EVALUATION

RESEARCH, DEVELOPMENT, TEST, AND EVALUATION, ARMY

For expenses necessary for basic and applied scientific research, development, test, and evaluation, including maintenance, rehabilitation, lease, and operation of facilities and equipment, as authorized by law; \$3,086,757,000, to remain available for obligation until September 30, 1982.

RESEARCH, DEVELOPMENT, TEST, AND EVALUATION, NAVY

(INCLUDING TRANSFER OF FUNDS)

For expenses necessary for basic and applied scientific research, development, test, and evaluation, including maintenance, rehabilitation, lease, and operation of facilities and equipment, as authorized by law; \$4,861,160,000, and in addition, \$6,052,000 of which \$4,086,000 shall be derived by transfer from "Research, Development, Test, and Evaluation, Navy, 1979/1980", and \$1,966,000 shall be derived by transfer from "Research, Development, Test, and Evaluation, Navy, 1980/1981", to remain available for obligation until September 30, 1982.

RESEARCH, DEVELOPMENT, TEST, AND EVALUATION, AIR FORCE

For expenses necessary for basic and applied scientific research, development, test, and evaluation, including maintenance, rehabilitation, lease, and operation of facilities and equipment, as authorized by law; \$6,774,011,000, to remain available for obligation until September 30, 1982.

RESEARCH, DEVELOPMENT, TEST, AND EVALUATION, DEFENSE AGENCIES

For expenses of activities and agencies of the Department of Defense (other than the military departments), necessary for basic and applied scientific research, development, test, and evaluation; advanced research projects as may be designated and determined by the Secretary of Defense, pursuant to law; maintenance, rehabilitation, lease, and operation of facilities and equipment, as authorized by law; \$1,254,602,000, to remain available for obligation until September 30, 1982: *Provided*, That such amounts as may be determined by the Secretary of Defense to have been made available in other appropriations available to the Department of Defense during the current fiscal year for programs related to advanced research may be transferred to and merged with this appropriation to be available for the same purposes and time period: *Provided further*, That such amounts of this appropriation as may be determined by the Secretary of Defense may be transferred to carry out the purposes of advanced research to those appropriations for military functions under the Department of Defense which are being utilized for related programs to be merged with and to be available for the same time period as the appropriation to which transferred.

Funds. transfer
and merger.

DIRECTOR OF TEST AND EVALUATION, DEFENSE

For expenses, not otherwise provided for, of independent activities of the Director of Defense Test and Evaluation in the direction and supervision of test and evaluation, including initial operational testing and evaluation; and performance of joint testing and evaluation; and administrative expenses in connection therewith; \$42,100,000, to remain available for obligation until September 30, 1982.

TITLE VI

SPECIAL FOREIGN CURRENCY PROGRAM

For payment in foreign currencies which the Treasury Department determines to be excess to the normal requirements of the United States for expenses in carrying out programs of the Department of Defense, as authorized by law; \$2,760,000, to remain available for obligation until September 30, 1982: *Provided*, That this appropriation shall be available in addition to other appropriations to such Department, for payments in the foregoing currencies.

TITLE VII

GENERAL PROVISIONS

Consulting
services.

SEC. 701. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to 5 U.S.C. 3109, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive order issued pursuant to existing law.

Publicity or
propaganda.

SEC. 702. No part of any appropriation contained in this Act shall be used for publicity or propaganda purposes not authorized by the Congress.

Experts and
consultants.

SEC. 703. During the current fiscal year, the Secretary of Defense and the Secretaries of the Army, Navy, and Air Force, respectively, if they should deem it advantageous to the national defense, and if in their opinions the existing facilities of the Department of Defense are inadequate, are authorized to procure services in accordance with section 3109 of title 5, United States Code, under regulations prescribed by the Secretary of Defense, and to pay in connection therewith travel expenses of individuals, including actual transportation and per diem in lieu of subsistence while traveling from their homes or places of business to official duty stations and return as may be authorized by law: *Provided*, That such contracts may be renewed annually.

Noncitizens,
compensation
and
employment.
31 USC 700.

SEC. 704. During the current fiscal year, provisions of law prohibiting the payment of compensation to, or employment of, any person not a citizen of the United States shall not apply to personnel of the Department of Defense.

SEC. 705. Appropriations contained in this Act shall be available for insurance of official motor vehicles in foreign countries, when required by laws of such countries; payments in advance of expenses determined by the investigating officer to be necessary and in accord with local custom for conducting investigations in foreign countries incident to matters relating to the activities of the department concerned; reimbursement to General Services Administration for security guard services for protection of confidential files; and all

necessary expenses, at the seat of government of the United States of America or elsewhere, in connection with communication and other services and supplies as may be necessary to carry out the purposes of this Act.

SEC. 706. Any appropriation available to the Army, Navy, or Air Force may, under such regulations as the Secretary concerned may prescribe, be used for expenses incident to the maintenance, pay, and allowances of prisoners of war, other persons in Army, Navy, or Air Force custody whose status is determined by the Secretary concerned to be similar to prisoners of war, and persons detained in such custody pursuant to Presidential proclamation.

Prisoners of war.
31 USC 649a.

SEC. 707. Appropriations available to the Department of Defense for the current fiscal year for maintenance or construction shall be available for acquisition of land or interest therein as authorized by section 2672 or 2675 of title 10, United States Code.

Land
acquisition.

SEC. 708. Appropriations for the Department of Defense for the current fiscal year shall be available, (a) for transportation to primary and secondary schools of minor dependents of military and civilian personnel of the Department of Defense as authorized for the Navy by section 7204 of title 10, United States Code; (b) for expenses in connection with administration of occupied areas; (c) for payment of rewards as authorized for the Navy by section 7209(a) of title 10, United States Code, for information leading to the discovery of missing naval property or the recovery thereof; (d) for payment of deficiency judgments and interests thereon arising out of condemnation proceedings; (e) for leasing of buildings and facilities including payment of rentals for special purpose space at the seat of government, and in the conduct of field exercises and maneuvers or, in administering the provisions of title 43, United States Code, section 315q, rentals may be paid in advance; (f) payments under contracts for maintenance of tools and facilities for twelve months beginning at any time during the fiscal year; (g) maintenance of defense access roads certified as important to national defense in accordance with section 210 of title 23, United States Code; (h) for the purchase of milk for enlisted personnel of the Department of Defense heretofore made available pursuant to section 1446a, title 7, United States Code, and the cost of milk so purchased, as determined by the Secretary of Defense, shall be included in the value of the commuted ration; (i) transporting civilian clothing to the home of record of selective service inductees and recruits on entering the military services; (j) payments under leases for real or personal property, including maintenance thereof when contracted for as a part of the lease agreement, for twelve months beginning at any time during the fiscal year; and (k) pay and allowances of not to exceed nine persons, including personnel detailed to International Military Headquarters and Organizations, at rates provided for under section 625(d)(1) of the Foreign Assistance Act of 1961, as amended; and (l) the purchase of right-hand-drive vehicles not to exceed \$12,000 per vehicle.

22 USC 2385.

SEC. 709. Appropriations for the Department of Defense for the current fiscal year shall be available for: (a) donations of not to exceed \$25 to each prisoner upon each release from confinement in military or contract prison and to each person discharged for fraudulent enlistment; (b) authorized issues of articles to prisoners, applicants for enlistment and persons in military custody; (c) subsistence of selective service registrants called for induction, applicants for enlistment, prisoners, civilian employees as authorized by law, and supernumeraries when necessitated by emergent military circumstances; (d) reimbursement for subsistence of enlisted personnel while sick in

10 USC 958 note.

10 USC 807 note.

Small and minority-owned business, contract opportunities.

Mess operations.

Fiscal year limitation.

Metal scrap processing facilities.
50 USC 100a.

hospitals; (e) expenses of prisoners confined in nonmilitary facilities; (f) military courts, boards, and commissions; (g) utility services for buildings erected at private cost, as authorized by law, and buildings on military reservations authorized by regulations to be used for welfare and recreational purposes; (h) exchange fees, and losses in the accounts of disbursing officers or agents in accordance with law; (i) expenses of Latin American cooperation as authorized for the Navy by law (10 U.S.C. 7208); (j) expenses of apprehension and delivery of deserters, prisoners, and members absent without leave, including payment of rewards of not to exceed \$75 in any one case; and (k) expenses of arrangements with foreign countries for cryptologic support.

SEC. 710. The Secretary of Defense and each purchasing and contracting agency of the Department of Defense shall assist American small and minority-owned business to participate equitably in the furnishing of commodities and services financed with funds appropriated under this Act by increasing, to an optimum level, the resources and number of personnel jointly assigned to promoting both small and minority business involvement in purchases financed with funds appropriated herein, and by making available or causing to be made available to such businesses, information, as far in advance as possible, with respect to purchases proposed to be financed with funds appropriated under this Act, and by assisting small and minority business concerns to participate equitably as subcontractors on contracts financed with funds appropriated herein, and by otherwise advocating and providing small and minority business opportunities to participate in the furnishing of commodities and services financed with funds appropriated by this Act.

SEC. 711. No appropriation contained in this Act shall be available for expenses of operation of messes (other than organized messes the operating expenses of which are financed principally from nonappropriated funds) at which meals are sold to officers or civilians, except under regulations approved by the Secretary of Defense, which shall (except under unusual or extraordinary circumstances) establish rates for such meals sufficient to provide reimbursements of operating expenses and food costs to the appropriations concerned: *Provided*, That officers and civilians in a travel status receiving a per diem allowance in lieu of subsistence shall be charged at the rate of not less than \$2.50 per day: *Provided further*, That for the purposes of this section payments for meals at the rates established hereunder may be made in cash or by deduction from the pay of civilian employees: *Provided further*, That members of organized nonprofit youth groups sponsored at either the national or local level, when extended the privilege of visiting a military installation and permitted to eat in the general mess by the commanding officer of the installation, shall pay the commuted ration cost of such meal or meals.

SEC. 712. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 713. During the current fiscal year no funds available to agencies of the Department of Defense shall be used for the operation, acquisition, or construction of new facilities or equipment for new facilities in the continental limits of the United States for metal scrap baling or shearing or for melting or sweating aluminum scrap unless the Secretary of Defense or an Assistant Secretary of Defense designated by him determines, with respect to each facility involved, that the operation of such facility is in the national interest.

SEC. 714. (a) During the current fiscal year, the President may exempt appropriations, funds, and contract authorizations, available for military functions under the Department of Defense, from the provisions of subsection (c) of section 3679 of the Revised Statutes, as amended, whenever he deems such action to be necessary in the interest of national defense.

Funds and contract authorizations, exemption.

31 USC 665.

(b) Upon determination by the President that such action is necessary, the Secretary of Defense is authorized to provide for the cost of an airborne alert as an excepted expense in accordance with the provisions of section 3732 of the Revised Statutes (41 U.S.C. 11).

Airborne alert expenses.

(c) Upon determination by the President that it is necessary to increase the number of military personnel on active duty subject to existing laws beyond the number for which funds are provided in this Act, the Secretary of Defense is authorized to provide for the cost of such increased military personnel, as an excepted expense in accordance with the provisions of section 3732 of the Revised Statutes (41 U.S.C. 11).

Active duty military personnel increases.

(d) The Secretary of Defense shall immediately advise Congress of the exercise of any authority granted in this section, and shall report monthly on the estimated obligations incurred pursuant to subsections (b) and (c).

Reports to Congress.

SEC. 715. No appropriation contained in this Act shall be available in connection with the operation of commissary stores of the agencies of the Department of Defense for the cost of purchase (including commercial transportation in the United States to the place of sale but excluding all transportation outside the United States) and maintenance of operating equipment and supplies, and for the actual or estimated cost of utilities as may be furnished by the Government and of shrinkage, spoilage, and pilferage of merchandise under the control of such commissary stores, except as authorized under regulations promulgated by the Secretaries of the military departments concerned with the approval of the Secretary of Defense, which regulations shall provide for reimbursement therefor to the appropriations concerned and, notwithstanding any other provision of law, shall provide for the adjustment of the sales prices in such commissary stores to the extent necessary to furnish sufficient gross revenues from sales of commissary stores to make such reimbursement: *Provided*, That under such regulations as may be issued pursuant to this section all utilities may be furnished without cost to the commissary stores outside the continental United States and in Alaska: *Provided further*, That no appropriation contained in this Act shall be available to pay any costs incurred by any commissary store or other entity acting on behalf of any commissary store in connection with obtaining the face value amount of manufacturer or vendor cents-off discount coupons unless all fees or moneys received for handling or processing such coupons are reimbursed to the appropriation charged with the incurred costs: *Provided further*, That no appropriation contained in this Act shall be available in connection with the operation of commissary stores within the continental United States unless the Secretary of Defense has certified that items normally procured from commissary stores are not otherwise available at a reasonable distance and a reasonable price in satisfactory quality and quantity to the military and civilian employees of the Department of Defense.

Commissary stores.

SEC. 716. No part of the appropriations in this Act shall be available for any expense of operating aircraft under the jurisdiction of the armed forces for the purpose of proficiency flying, as defined in Department of Defense Directive 1340.4, except in accordance with

Proficiency flying.

regulations prescribed by the Secretary of Defense. Such regulations (1) may not require such flying except that required to maintain proficiency in anticipation of a member's assignment to combat operations and (2) such flying may not be permitted in cases of members who have been assigned to a course of instruction of ninety days or more.

Household
goods.

SEC. 717. No part of any appropriation contained in this Act shall be available for expense of transportation, packing, crating, temporary storage, drayage, and unpacking of household goods and personal effects in any one shipment having a net weight in excess of thirteen thousand five hundred pounds.

Vessels transfer.
40 USC 483a.

SEC. 718. Vessels under the jurisdiction of the Department of Commerce, the Department of the Army, the Department of the Air Force, or the Department of the Navy may be transferred or otherwise made available without reimbursement to any such agencies upon the request of the head of one agency and the approval of the agency having jurisdiction of the vessels concerned.

Obligated funds,
limitation.

SEC. 719. Not more than 20 per centum of the appropriations in this Act which are limited for obligations during the current fiscal year shall be obligated during the last two months of the fiscal year: *Provided*, That this section shall not apply to obligations for support of active duty training of civilian components or summer camp training of the Reserve Officers' Training Corps, or the National Board for the Promotion of Rifle Practice, Army.

Foreign real
property
commodities,
and services.

SEC. 720. During the current fiscal year the agencies of the Department of Defense may accept the use of real property from foreign countries for the United States in accordance with mutual defense agreements or occupational arrangements and may accept services furnished by foreign countries as reciprocal international courtesies or as services customarily made available without charge; and such agencies may use the same for the support of the United States forces in such areas without specific appropriation therefor.

31 USC 700a.

In addition to the foregoing, agencies of the Department of Defense may accept real property, services, and commodities from foreign countries for the use of the United States in accordance with mutual defense agreements or occupational arrangements and such agencies may use the same for the support of the United States forces in such areas, without specific appropriations therefor: *Provided*, That the foregoing authority shall not be available for the conversion of heating plants from coal to oil at defense facilities in Europe: *Provided further*, That within thirty days after the end of each quarter the Secretary of Defense shall render to Congress and to the Office of Management and Budget a full report of such property, supplies, and commodities received during such quarter.

Report to
Congress and
OMB.

Research and
development
funds.

SEC. 721. During the current fiscal year, appropriations available to the Department of Defense for research and development may be used for the purposes of section 2353 of title 10, United States Code, and for purposes related to research and development for which expenditures are specifically authorized in other appropriations of the service concerned.

Educational
expenses
limitation.

SEC. 722. No appropriation contained in this Act shall be available for the payment of more than 75 per centum of charges of educational institutions for tuition or expenses of off-duty training of military personnel (except with regard to such charges of educational institutions (a) for enlisted personnel in the pay grade E-5 or higher with less than 14 years' service, for which payment of 90 per centum may be made or (b) for military personnel in off-duty high school completion programs, for which payment of 100 per centum may be made).

nor for the payment of any part of tuition or expenses for such training for commissioned personnel who do not agree to remain on active duty for two years after completion of such training.

SEC. 723. No part of the funds appropriated herein shall be expended for the support of any formally enrolled student in basic courses of the senior division, Reserve Officers' Training Corps, who has not executed a certificate of loyalty or loyalty oath in such form as shall be prescribed by the Secretary of Defense.

Loyalty
certificate or
oath.
10 USC 2103
note.

SEC. 724. No part of any appropriation contained in this Act, except for small purchases in amounts not exceeding \$10,000, shall be available for the procurement of any article of food, clothing, cotton, woven silk or woven silk blends, spun silk yarn for cartridge cloth, synthetic fabric or coated synthetic fabric, or wool (whether in the form of fiber or yarn or contained in fabrics, materials, or manufactured articles), or specialty metals including stainless steel flatware, not grown, reprocessed, reused, or produced in the United States or its possessions, except to the extent that the Secretary of the Department concerned shall determine that a satisfactory quality and sufficient quantity of any articles of food or clothing or any form of cotton, woven silk and woven silk blends, spun silk yarn for cartridge cloth, synthetic fabric or coated synthetic fabric, wool, or specialty metals including stainless steel flatware, grown, reprocessed, reused, or produced in the United States or its possessions cannot be procured as and when needed at United States market prices and except procurements outside the United States in support of combat operations, procurements by vessels in foreign waters, and emergency procurements or procurements of perishable foods by establishments located outside the United States for the personnel attached thereto: *Provided*, That nothing herein shall preclude the procurement of specialty metals or chemical warfare protective clothing produced outside the United States or its possessions when such procurement is necessary to comply with agreements with foreign governments requiring the United States to purchase supplies from foreign sources for the purposes of offsetting sales made by the United States Government or United States firms under approved programs serving defense requirements or where such procurement is necessary in furtherance of the standardization and interoperability of equipment requirements within NATO so long as such agreements with foreign governments comply, where applicable, with the requirements of section 36 of the Arms Export Control Act and with section 814 of the Department of Defense Appropriation Authorization Act, 1976: *Provided further*, That nothing herein shall preclude the procurement of foods manufactured or processed in the United States or its possessions: *Provided further*, That no funds herein appropriated shall be used for the payment of a price differential on contracts hereafter made for the purpose of relieving economic dislocations other than certain contracts not involving fuel made on a test basis by the Defense Logistics Agency with a cumulative value not to exceed \$3,400,000,000, as may be determined by the Secretary of Defense pursuant to existing laws and regulations as not to be inappropriate therefor by reason of national security considerations: *Provided further*, That the Secretary specifically determines that there is a reasonable expectation that offers will be obtained from a sufficient number of eligible concerns so that awards of such contracts will be made at a reasonable price and that no award shall be made for such contracts if the price differential exceeds 5 per centum: *Provided further*, That none of the funds appropriated in this Act shall be used except that, so far as practicable, all contracts shall be

Procurement
limitations.

22 USC 277b.
59 Stat. 540

awarded on a formally advertised competitive bid basis to the lowest responsible bidder.

SEC. 725. None of the funds appropriated by this Act shall be used for the construction, replacement, or reactivation of any bakery, laundry, or drycleaning facility in the United States, its territories or possessions, as to which the Secretary of Defense does not certify in writing, giving his reasons therefor, that the services to be furnished by such facilities are not obtainable from commercial sources at reasonable rates.

Inactive duty
training pay.

SEC. 726. None of the funds appropriated by this Act may be obligated under section 206 of title 37, United States Code, for inactive duty training pay of a member of the National Guard or a member of a reserve component of a uniformed service for more than four periods of equivalent training, instruction, duty or appropriate duties that are performed instead of that member's regular period of instruction or regular period of appropriate duty.

Furnishings and
automobiles,
purchase.

SEC. 727. Appropriations contained in this Act shall be available for the purchase of household furnishings, and automobiles from military and civilian personnel on duty outside the continental United States, for the purpose of resale at cost to incoming personnel, and for providing furnishings, without charge, in other than public quarters occupied by military or civilian personnel of the Department of Defense on duty outside the continental United States or in Alaska, upon a determination, under regulations approved by the Secretary of Defense, that such action is advantageous to the Government.

Uniforms.

SEC. 728. During the current fiscal year, appropriations available to the Department of Defense for pay of civilian employees shall be available for uniforms, or allowances therefor, as authorized by law (5 U.S.C. 5901; 80 Stat. 508).

Legislative
liaison activities.

SEC. 729. Funds provided in this Act for legislative liaison activities of the Department of the Army, the Department of the Navy, the Department of the Air Force, and the Office of the Secretary of Defense shall not exceed \$7,500,000 for the current fiscal year. *Provided*, That this amount shall be available for apportionment to the Department of the Army, the Department of the Navy, the Department of the Air Force, and the Office of the Secretary of Defense as determined by the Secretary of Defense.

Civil reserve air
fleet.

SEC. 730. Of the funds made available by this Act for the services of the Military Airlift Command, \$100,000,000 shall be available only for procurement of commercial transportation service from carriers participating in the civil reserve air fleet program; and the Secretary of Defense shall utilize the services of such carriers which qualify as small businesses to the fullest extent found practicable: *Provided*, That the Secretary of Defense shall specify in such procurement, performance characteristics for aircraft to be used based upon modern aircraft operated by the civil reserve air fleet.

Civilian
clothing.

SEC. 731. During the current fiscal year, appropriations available to the Department of Defense for operation may be used for civilian clothing, not to exceed \$40 in cost for enlisted personnel: (1) discharged for misconduct, unsuitability, or otherwise than honorably; (2) sentenced by a civil court to confinement in a civil prison or interned or discharged as an alien enemy; or (3) discharged prior to completion of recruit training under honorable conditions for dependency, hardship, minority, disability, or for the convenience of the Government.

Defense
contractors
advertising
costs, limitation.

SEC. 732. No part of the funds appropriated herein shall be available for paying the costs of advertising by any defense contractor, except advertising for which payment is made from profits, and

such advertising shall not be considered a part of any defense contract cost. The prohibition contained in this section shall not apply with respect to advertising conducted by any such contractor, in compliance with regulations which shall be promulgated by the Secretary of Defense, solely for (1) the recruitment by the contractor of personnel required for the performance by the contractor of obligations under a defense contract, (2) the procurement of scarce items required by the contractor for the performance of a defense contract, or (3) the disposal of scrap or surplus materials acquired by the contractor in the performance of a defense contract.

SEC. 733. Funds appropriated in this Act for maintenance and repair of facilities and installations shall not be available for acquisition of new facilities, or alteration, expansion, extension, or addition of existing facilities, as defined in Department of Defense Directive 7040.2, dated January 18, 1961, in excess of \$100,000: *Provided*, That the Secretary of Defense may amend or change the said directive during the current fiscal year, consistent with the purpose of this section.

New facilities.
limitation.

SEC. 734. Upon determination by the Secretary of Defense that such action is necessary in the national interest, he may, with the approval of the Office of Management and Budget, transfer not to exceed \$750,000,000 of working capital funds of the Department of Defense or funds made available in this Act to the Department of Defense for military functions (except military construction) between such appropriations or funds or any subdivision thereof, to be merged with and to be available for the same purposes, and for the same time period, as the appropriation or fund to which transferred: *Provided*, That such authority to transfer may not be used unless for higher priority items, based on unforeseen military requirements, than those for which originally appropriated and in no case where the item for which funds are requested has been denied by Congress: *Provided further*, That the Secretary of Defense shall notify the Congress promptly of all transfers made pursuant to this authority.

Funds, transfer.

SEC. 735. During the current fiscal year, cash balances in working capital funds of the Department of Defense established pursuant to section 2208 of title 10, United States Code, may be maintained in only such amounts as are necessary at any time for cash disbursements to be made from such funds: *Provided*, That transfers may be made between such funds in such amounts as may be determined by the Secretary of Defense, with the approval of the Office of Management and Budget, except that transfers between a stock fund account and an industrial fund account may not be made unless the Secretary of Defense has notified the Congress of the proposed transfer. Except in amounts equal to the amounts appropriated to working capital funds in this Act, no obligations may be made against a working capital fund to procure war reserve material inventory, unless the Secretary of Defense has notified the Congress prior to any such obligation.

Notification of
Congress.

Working capital
funds.

Funds, transfer.

Notification of
Congress.

SEC. 736. Not more than \$192,800,000 of the funds appropriated by this Act shall be made available for payment to the Federal Employees Compensation Fund, as established by 5 U.S.C. 8147.

Federal
Employees
Compensation
Fund.
Loan
restrictions.

SEC. 737. No part of the funds appropriated under this Act shall be used to provide a loan, guarantee of a loan, or a grant to any applicant who has been convicted by any court of general jurisdiction of any crime which involves the use of or the assistance to others in the use of force, trespass, or the seizure of property under control of an institution of higher education to prevent officials or students at such an institution from engaging in their duties or pursuing their studies.

Heating plant
conversion.

SEC. 738. None of the funds available to the Department of Defense shall be utilized for the conversion of heating plants from coal to oil at defense facilities in Europe.

Nonvoluntary
experimental
subjects.

SEC. 739. None of the funds appropriated by this Act shall be available for any research involving uninformed or nonvoluntary human beings as experimental subjects.

SEC. 740. Appropriations for the current fiscal year for operation and maintenance of the active forces shall be available for medical and dental care of personnel entitled thereto by law or regulation (including charges of private facilities for care of military personnel, except elective private treatment); welfare and recreation; hire of passenger motor vehicles; repair of facilities; modification of personal property; design of vessels; industrial mobilization; installation of equipment in public and private plants; military communications facilities on merchant vessels; acquisition of services, special clothing, supplies, and equipment; and expenses for the Reserve Officers' Training Corps and other units at educational institutions.

Funds,
reprogramming.

SEC. 741. No part of the funds in this Act shall be available to prepare or present a request to the Committees on Appropriations for the reprogramming of funds, unless for higher priority items, based on unforeseen military requirements, than those for which originally appropriated and in no case where the item for which reprogramming is requested has been denied by the Congress.

Health program,
limitations.

SEC. 742. No funds appropriated by this Act shall be available to pay claims for nonemergency inpatient hospital care provided under the Civilian Health and Medical Program of the Uniformed Services for services available at a facility of the uniformed services within a 40-mile radius of the patient's residence.

SEC. 743. None of the funds contained in this Act available for the Civilian Health and Medical Program of the Uniformed Services under the provisions of section 1079(a) of title 10, United States Code, shall be available for (a) services of pastoral counselors, or family and child counselors, or marital counselors unless the patient has been referred to such counselor by a medical doctor for treatment of a specific problem with results of that treatment to be communicated back to the physician who made such referral; (b) special education, except when provided as secondary to the active psychiatric treatment on an institutional inpatient basis; (c) therapy or counseling for sexual dysfunctions or sexual inadequacies; (d) treatment of obesity when obesity is the sole or major condition treated; (e) reconstructive surgery (other than post-mastectomy reconstructive surgery to overcome the effects of trauma or disease), justified solely on psychiatric needs including, but not limited to, mammary augmentation, face lifts and sex gender changes; (f) reimbursement of any physician or other authorized individual provider of medical care in excess of the eightieth percentile of the customary charges made for similar services in the same locality where the medical care was furnished, as determined for physicians in accordance with section 1079(h) of title 10, United States Code; or (g) any service or supply which is not medically or psychologically necessary to prevent, diagnose, or treat a mental or physical illness, injury, or bodily malfunction as assessed or diagnosed by a physician, dentist, clinical psychologist, optometrist, podiatrist, certified nurse-midwife, or, for the purpose of conducting a test during fiscal year 1981, by a certified psychiatric nurse, other certified nurse practitioner, or certified clinical social worker, as appropriate, except as authorized by section 1079(a)(4) of title 10, United States Code.

SEC. 744. Appropriations available to the Department of Defense for the current fiscal year shall be available to provide an individual entitled to health care under chapter 55 of title 10, United States Code, with one wig if the individual has alopecia that resulted from treatment of malignant disease: *Provided*, That the individual has not previously received a wig from the Government.

10 USC 1071 *et seq.*

SEC. 745. Funds appropriated in this Act shall be available for the appointment, pay, and support of persons appointed as cadets and midshipmen in the two-year Senior Reserve Officers' Training Corps course in excess of the 20 percent limitation on such persons imposed by section 2107(a) of title 10, United States Code, but not to exceed 60 percent of total authorized scholarships.

SEC. 746. None of the funds appropriated by this Act shall be available to pay any member of the uniformed service for unused accrued leave pursuant to section 501 of title 37, United States Code, for more than sixty days of such leave, less the number of days for which payment was previously made under section 501 after February 9, 1976.

Unused accrued leave.

SEC. 747. None of the funds appropriated by this Act may be used to support more than 300 enlisted aides for officers in the United States Armed Forces.

Enlisted aides, limitations.

SEC. 748. No appropriation contained in this Act may be used to pay for the cost of public affairs activities of the Department of Defense in excess of \$28,000,000.

Public affairs activities.

SEC. 749. None of the funds provided in this Act shall be available for the planning or execution of programs which utilize amounts credited to Department of Defense appropriations or funds pursuant to the provisions of section 37(a) of the Arms Export Control Act representing payment for the actual value of defense articles specified in section 21(a)(1) of that Act: *Provided*, That such amounts so credited shall be deposited in the Treasury as miscellaneous receipts as provided in 31 U.S.C. 484.

22 USC 2777.

22 USC 2761.

SEC. 750. During the current fiscal year, for the purpose of conducting a test to evaluate a capitation approach to providing medical care and to that end for the purpose of providing adequate funds in Department of Defense Medical Regions 1 and 7 for medical care, including the expenses of the Civilian Health and Medical Program of the Uniformed Services, funds available to the Department of Defense in the appropriation "Operation and Maintenance, Defense Agencies" for expenses of the Civilian Health and Medical Program of the Uniformed Services may be transferred to appropriations available to the military departments for operation and maintenance, and funds available to the military departments for operation and maintenance may be transferred between such appropriations: *Provided*, That funds transferred pursuant to this authority shall be merged with and made available for the same purpose as the appropriation to which transferred: *Provided further*, That the Secretary of Defense shall notify the Congress promptly of all transfers made pursuant to this authority: *Provided further*, That transfer authority provided herein shall be in addition to that provided in section 734 of this Act.

Medical care

Notification of Congress.

SEC. 751. No appropriation contained in this Act shall be available to fund any costs of a Senior Reserve Officers' Training Corps unit—except to complete training of personnel enrolled in Military Science 4—which in its junior year class (Military Science 3) has for the four preceding academic years, and as of September 30, 1980, enrolled less than (a) seventeen students where the institution prescribes a four-year or a combination four- and two-year program; or (b) twelve

Senior ROTC unit, limitation. Effective date.

students where the institution prescribes a two-year program: *Provided*, That, notwithstanding the foregoing limitation, funds shall be available to maintain one Senior Reserve Officers' Training Corps unit in each State and at each State-operated maritime academy: *Provided further*, That units under the consortium system shall be considered as a single unit for purposes of evaluation of productivity under this provision: *Provided further*, That if enrollment standards contained in Department of Defense Directive 1215.8 for Senior Reserve Officers' Training Corps units are revised, then the revised standards may be used to determine compliance with this provision, in lieu of the standards cited above.

Sec. 751A. None of the funds appropriated by this Act shall be obligated under the Competitive Rate Program of the Department of Defense for the transportation of household goods to or from Alaska or Hawaii.

Sec. 752. (a) None of the funds appropriated by this Act or available in any working capital fund of the Department of Defense shall be available to pay the expenses attributable to lodging of any person on official business away from his designated post of duty, or in the case of an individual described under section 5703 of title 5, United States Code, his home or regular place of duty, when adequate government quarters are available, but are not occupied by such person.

(b) The limitation set forth in subsection (a) is not applicable to employees whose duties require official travel in excess of fifty percent of the total number of the basic administrative work weeks during the current fiscal year.

Sec. 753. (a) None of the funds appropriated by this Act shall be available to pay the retainer pay of any enlisted member of the Regular Navy, the Naval Reserve, the Regular Marine Corps, or the Marine Corps Reserve who is transferred to the Fleet Reserve or the Fleet Marine Corps Reserve under section 6330 of title 10, United States Code, on or after December 31, 1977, if the provisions of section 6330(d) of title 10, are utilized in determining such member's eligibility for retirement under section 6330(b) of title 10: *Provided*, That notwithstanding the foregoing, time creditable as active service for a completed minority enlistment, and an enlistment terminated within three months before the end of the term of enlistment under section 6330(d) of title 10, prior to December 31, 1977, may be utilized in determining eligibility for retirement: *Provided further*, That notwithstanding the foregoing, time may be credited as active service in determining a member's eligibility for retirement under section 6330(b) of title 10 pursuant to the provisions of the first sentence of section 6330(d) of title 10 for those members who had formally requested transfer to the Fleet Reserve or the Fleet Marine Corps Reserve on or before October 1, 1977.

(b) None of the funds appropriated by this Act shall be available to pay that portion of the retainer pay of any enlisted member of the Regular Navy, the Naval Reserve, the Regular Marine Corps, or the Marine Corps Reserve who is transferred to the Fleet Reserve or the Fleet Marine Corps Reserve under section 6330 of title 10, United States Code, on or after December 31, 1977, which is attributable under the second sentence of section 6330(d) of title 10 to time which, after December 31, 1977, is not actually served by such member.

Sec. 754. None of the funds appropriated by this Act for programs of the Central Intelligence Agency shall remain available for obligation beyond the current fiscal year.

Sec. 755. None of the funds provided by this Act may be used to pay the salaries of any person or persons who authorize the transfer of

Enlisted
members,
transfer;
retainer pay.

CIA programs,
fiscal year
limitation.

CIA salaries,
limitation.

unobligated and deobligated appropriations into the Reserve for Contingencies of the Central Intelligence Agency.

Sec. 756. None of the funds appropriated by this Act may be used to support more than 9,901 full-time and 2,603 part-time military personnel assigned to or used in the support of Morale, Welfare, and Recreation activities as described in Department of Defense Instruction 7000.12 and its enclosures, dated July 17, 1974.

Sec. 757. During the current fiscal year, the Department of Defense may guarantee loans pursuant to title III of the Defense Production Act of 1950 as amended (50 U.S.C. App. 2091, 64 Stat. 800) in an amount not to exceed \$30,000,000.

Loan
guarantees.
limitation.

Sec. 758. None of the funds appropriated by this Act may be used for the consolidation or realignment of advanced or undergraduate pilot training squadrons of the Navy.

Pilot training
squadrons.

Sec. 759. All obligations incurred in anticipation of the appropriations and authority provided in this Act are hereby ratified and confirmed if otherwise in accordance with the provisions of this Act.

Sec. 760. None of the funds provided by this Act shall be used to perform abortions except where the life of the mother would be endangered if the fetus were carried to term; or except for such medical procedures necessary for the victims of rape or incest, when such rape has within seventy-two hours been reported to a law enforcement agency or public health service; nor are payments prohibited for drugs or devices to prevent implantation of the fertilized ovum, or for medical procedures necessary for the termination of an ectopic pregnancy: *Provided, however,* That the several States are and shall remain free not to fund abortions to the extent that they in their sole discretion deem appropriate.

Abortion
funding.
limitation.

Sec. 761. During the current fiscal year, funds appropriated by this Act shall be available to provide for the lease of a facility, regardless of location, designated by the Secretary of Defense for cryptologic purposes; and for alterations, improvement, and repair of that facility notwithstanding any other provisions of law. Funding for lease, alterations, improvement, and repair shall not exceed one million dollars. Further, funds appropriated by this Act shall be available to provide support in accordance with sections 4 and 8 of the Central Intelligence Agency Act of 1949, as amended (50 U.S.C. 403e and 403j), to certain Department of Defense cryptologic personnel stationed overseas as designated by the Secretary of Defense.

Cryptologic
personnel and
facilities.

Sec. 762. Effective the first day of the second month following enactment of this Act, none of the funds appropriated by this Act shall be available to pay the retired pay or retainer pay of a person for any month who, on or after December 1, 1980, is retired under section 8337 of title 5, United States Code, in an amount that is more than—

Retired or
retainer pay.
limitation.

(a) the monthly amount of retired pay or retainer pay that the person is otherwise entitled to receive, minus

(b) the amount equal to the difference between:

(1) the amount the person is entitled to receive for that month as a civil service annuity computed based on the provisions of section 8339(g) of title 5, United States Code, and

(2) the amount the person would be entitled to receive for that month if the person's civil service annuity was computed under the provisions of section 8339 (a), (b), or (c), as appropriate, excluding credit for military service:

Provided, That the foregoing limitation shall not serve to reduce the retired or retainer pay below that necessary to make deductions from

the retired pay of a person for deductions for Survivor Benefit Plan payments: *Provided further*, That the foregoing limitation shall not apply to a person who has applied for retirement under section 8337 of title 5, United States Code, prior to December 1, 1980: *Provided further*, That the foregoing limitation shall not apply to a person who is covered by the provisions of section 8332(c) (1) or (2) of title 5, United States Code.

Sec. 763. None of the funds appropriated by this Act shall be used for the provision, care or treatment to dependents of members or former members of the Armed Services or the Department of Defense for the elective correction of minor dermatological blemishes and marks or minor anatomical anomalies.

Sec. 764. None of the funds appropriated by this Act shall be available for the purchase of insignia for resale unless the sales price of such insignia is adjusted to the extent necessary to recover the cost of purchase of such insignia and the estimated cost of all related expenses, including but not limited to management, storage, handling, transportation, loss, disposal of obsolete material, and management fees paid to the military exchange systems: *Provided*, That amounts derived by the adjustment covered by the foregoing limitations may be credited to the appropriations against which the charges have been made to recover the cost of purchase and related expense.

Audits.

Sec. 764A. All unresolved audits currently pending within agencies and departments, for which appropriations are made under this Act, shall be resolved not later than September 30, 1981. Any new audits, involving questioned expenditures, arising after the enactment of this Act shall be resolved within 6 months of completing the initial audit report.

Claim payments to Federal Republic of Germany.

Sec. 764B. None of the funds appropriated by this Act or heretofore appropriated by any other Act shall be obligated or expended for the payment of anticipatory possession compensation claims to the Federal Republic of Germany other than claims listed in the 1973 agreement (commonly referred to as the Global Agreement) between the United States and the Federal Republic of Germany.

Overdue and delinquent debts.

Sec. 765. Each department and agency for which appropriations are made under this Act shall take immediate action (1) to improve the collection of overdue debts owed to the United States within the jurisdiction of that department or agency; (2) to bill interest on delinquent debts as required by the Federal Claims Collection Standards; and (3) to reduce amounts of such debts written off as uncollectible.

Procurement limitation.

Sec. 766. None of the funds appropriated by this Act shall be available for a contract for studies, analyses, or consulting services entered into without competition on the basis of an unsolicited proposal unless the head of the activity responsible for the procurement determines:

(a) as a result of thorough technical evaluation, only one source is found fully qualified to perform the proposed work, or

(b) the purpose of the contract is to explore an unsolicited proposal which offers significant scientific or technological promise, represents the product of original thinking, and was submitted in confidence by one source, or

(c) where the purpose of the contract is to take advantage of unique and significant industrial accomplishment by a specific concern, or to insure that a new product or idea of a specific concern is given financial support:

Provided, That this limitation shall not apply to contracts in an amount of less than \$25,000, contracts related to improvements of

equipment that is in development or production, or contracts as to which a civilian official of the Department of Defense, who has been confirmed by the Senate, determines that the award of such contract is in the interest of the national defense.

SEC. 767. None of the funds appropriated by this Act shall be available to provide medical care in the United States on an inpatient basis to foreign military and diplomatic personnel or their dependents unless the Department of Defense is reimbursed for the costs of providing such care: *Provided*, That reimbursements for medical care covered by this section shall be credited to the appropriations against which charges have been made for providing such care.

Foreign military and diplomatic personnel, medical care.

SEC. 767A. The appropriation "Foreign Currency Fluctuations, Defense" shall not be available hereafter to transfer funds between that account and appropriations available to the Department of Defense for military personnel expenses with regard to obligations incurred after September 30, 1980.

Funds transfer, limitation.

SEC. 768. None of the funds appropriated by this Act shall be obligated for the second career training program authorized by Public Law 96-347.

Second career training program.

SEC. 769. None of the funds appropriated or otherwise made available in this Act shall be obligated or expended for salaries or expenses during the current fiscal year for the purposes of demilitarization of small firearms.

Small arms demilitarization.

SEC. 770. During the current fiscal year, not to exceed \$125,000,000 of the funds provided in this Act for the Civilian Health and Medical Program of the Uniformed Services may be used to conduct a test program in accordance with the following guidelines: In carrying out the provisions of sections 1079 and 1086 of title 10, United States Code, the Secretary of Defense, after consulting with the Secretary of Health and Human Services, may contract with organizations that assume responsibility for the maintenance of the health of a defined population, for the purpose of experiments and demonstration projects designed to determine the relative advantages and disadvantages of providing pre-paid health benefits: *Provided*, That such projects must be designed in such a way as to determine methods of reducing the cost of health benefits provided under such sections without adversely affecting the quality of care. Except as provided otherwise, the provisions of such a contract may deviate from the cost-sharing arrangements prescribed and the types of health care authorized under sections 1079 and 1086, when the Secretary of Defense determines that such a deviation would serve the purpose of this section.

Pre-paid health benefits, demonstration projects.

SEC. 771. (a) The Act entitled "An Act authorizing the Secretary of War to convey the Kennebec Arsenal property, situated in Augusta, Maine, to the State of Maine for public purposes", approved March 3, 1905 (33 Stat. 1270), is amended by inserting "or for other public purposes" after "in conformity with the terms of this Act".

Kennebec Arsenal, Maine.

(b) The Secretary of the Army shall issue such written instructions, deeds, or other instruments as may be necessary to bring the conveyance made to the State of Maine under the authority of the Act referred to in subsection (a) into conformity with the amendment made by such subsection.

SEC. 772. Subsection (c) of section 1124 of title 10, United States Code, is amended to read as follows:

Cash awards.

(c) An award under this section may be paid notwithstanding the member's death, separation, or retirement from the armed force concerned. However, the suggestion, invention, or scientific achievement forming the basis for the award must have been made while the

member was on active duty or in an active reserve status and not otherwise eligible for an award under chapter 45 of title 5."

TITLE VIII

RELATED AGENCIES

INTELLIGENCE COMMUNITY STAFF

For necessary expenses of the Intelligence Community Staff; \$17,824,000.

CENTRAL INTELLIGENCE AGENCY RETIREMENT AND DISABILITY SYSTEM FUND

For payment to the Central Intelligence Agency Retirement and Disability System Fund, to maintain proper funding level for continuing the operation of the Central Intelligence Agency Retirement and Disability System; \$55,300,000.

Short title.

This Act may be cited as the "Department of Defense Appropriation Act, 1981"

Approved December 15, 1980.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 96-1317 (Comm. on Appropriations) and No. 96-1528 (Comm. of Conference).

SENATE REPORT No. 96-1020 (Comm. on Appropriations).

CONGRESSIONAL RECORD, Vol. 126 (1980):

Sept. 15, 16, considered and passed House.

Nov. 21, considered and passed Senate, amended.

Dec. 5, House agreed to conference report; receded from its disagreement and concurred in certain Senate amendments and in others with amendments.

Senate agreed to conference report and concurred in House amendments.

APPENDIX B

SUBDIVISIONS OF THE DEFENSE ACQUISITION REGULATIONS

Section

- 1 General Provisions
- 2 Procurement by Formal Advertising
- 3 Procurement by Negotiation
- 4 Special Types and Methods of Procurement
- 5 Interdepartmental and Co-ordinated Procurement
- 6 Foreign Purchases
- 7 Contract Clauses and Solicitation Provisions
- 8 Termination of Contracts
- 9 Patents, Data, and Copyrights
- 10 Bonds, Insurance, and Indemnification
- 11 Taxes
- 12 Contractor Industrial Labor Relations
- 13 Government Property
- 14 Procurement Quality Assurance
- 15 Contract Cost Principles and Procedures
16. Procurement Forms
- 17 Extraordinary Contractual Actions
- 18 Construction and Architect-Engineer Contracts
- 19 Transportation
- 20 Administrative Matters
- 21 Procurement Management Reporting System
- 22 Service Contracts
- 23 Subcontracting Policies and Procedures
- 24 Disposition of Personal Property in Possession of Contractors
- 25 Production Surveillance and Reporting
- 26 Contract Modifications

Appendices

- A Armed Services Board of Contract Appeals
- B Government Property in Possession of Contractors
- C Government Property in Possession of Nonprofit Contractors
- D Notice and Hearing under Gratuities Clause
- E Defense Contract Financing Regulations
- F Illustrations of Standard and Department of Defense Forms
- G Avoidance of Organizational Conflicts of Interest
- H Military Standard Requisitioning and Issue Procedure

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